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A Study of Right-to-Work Laws

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A STUDY OF RIGHT-TO-WORK LAWS

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ABSTRACT

The topic of right to work laws is the number one labor relations issue at the present. The subject represents a conflict between two principles of human rights--individual rights v. group rights or rights of the majority. The right to work controversy revolves around the question of whether a worker should be required to become and remain a member of a labor union as a condition of employment.

Right to work laws provide that membership or nonmembership in a labor union shall not be a qualification or bar to obtaining or retaining employment. It must be remembered that right to work laws are state and not Federal laws.

These laws now in effect in nineteen states have come upon the labor relations scene during the postwar years--since the passage of the Taft-Hartley Act.

It was the purpose of this thesis to define the right to work issue and show it in the light of existing labor legislation; to examine and compare basic pro and con arguments over right to work laws; to show effects of right to work laws; and to present the information in such a way that the reader himself can form his own opinion in regard to the right to work laws. This is intended to be a general study of the problem.

Debate over these right to work laws has been bitter. The arguments made by the opponents are highly colored with propaganda.

States are authorized to enact a right to work law by Section 14 (b) of the Taft-Hartley Act. This is the only area where the Federal preemption doctrine has not been applied.

Right to work will probably continue to be an issue of utmost importance and of great controversy in the future.

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CHAPTER I

THE RIGHT-TO-WORK ISSUE AND DEFINITIONS OF TERMS USED

The number one labor relations issue today, in view of the interest and controversy surrounding it, is that of the right to work laws which have come upon the labor relations scene during the postwar years. To a considerable extent, this subject represents a conflict between two principles regarding human rights.

On one side are those who will strongly support the rights of the individual. Those who support this side will vigorously uphold the right of any individual worker to go to work for any employer who is willing to hire him, without any compulsion to join a labor organization unless he wants to of his own free will.

On the other hand, there are those who will strongly advocate the rights of the group--the labor union. These supporters will back the right of the majority of workers if they so desire, to protect and demand what is called "union security," their right to bargain collectively with their employer through the union without any weakening of their position by the actions of contrary minded individual workers. The arguments both for and against right to work laws made by the opposing sides are clearly stated, but they are highly colored with propaganda.

I. RIGHT-TO-WORK LAWS

The right to work controversy itself is centered around the question of whether a worker should be required to become and remain a member of a labor union as a condition of employment. Right to work laws provide that membership or nonmembership in a labor union shall not be a qualification or bar to obtaining or retaining employment. The aim of these laws is the prohibition of closed and union shop agreements, called "union security agreements" by persons who favor the union shop and "compulsory unionism" by those who favor the open shop.

The subject of right to work legislation has become the center of a nationwide controversy during the last twelve years--since the passage of the Taft-Hartley Act. Debate over these laws has been bitter, and much money has been spent by the groups supporting the opposing sides of the controversy. Recently, right to work had become a heated political issue in Kansas. It was the subject of the third of the three amendments to the Kansas Constitution that were approved by the voters in the November 4, 1958, general election.

It is the purpose of this study (1) to define the right to work issue and show it in the light of existing labor legislation, (2) to examine and compare the basic pro and con arguments over right to work laws as given by various groups

and individuals, (3) to show the economic effects of these laws upon the states that have them, according to information published by supporters of the pro and con sides of the controversy, and (4) to present the facts and argumentative information in such a way that the reader himself can form his own conclusions as to the desirability of right to work laws.

It is also the intended purpose of this particular piece of research to present a general picture of the controversy.

Due to the importance of the issue, both on the national scene and in Kansas, and to a lack of any complete work presenting both sides of the controversy the writer has felt that a study of this type would serve a useful purpose. The best information on this subject, pro and con, comes from the primary sources--pamphlets and folders published by organizations supporting or opposing right to work laws. These, of course, contain the ideas on one side of the argument only, and are intended to be propaganda for swaying the sentiments of the general public.

The only works available on this subject at the present time that deal widely with the issue by bringing together under one cover the present status of labor legislation, including right to work legislation, and both pro and con discussion on right to work are annotated bibliographies and

handbooks. These materials are prepared largely for debaters of the right to work controversy, and they furnish an excellent source of reference. However, they do not present this material in readable essay form. Thus, the writer has felt a need for such a study as this one.

This study is limited to a general survey of the right to work issue. An attempt has been made to present the opposing points of view as impartially as possible, to avoid any conclusions as to the merits of the pro and con arguments, and to give an adequate survey of the problem. Most of the pro and con discussion is limited to information taken from organization publications, as previously stated.

II. DEFINITIONS OF TERMS USED

Since right to work laws tend to prohibit union security it needs to be defined first. Following this, the varying degrees of union security will be defined, arranged from the minimum degree of union security to the maximum. Lastly, in the glossary of this thesis, a list of terms used frequently throughout this paper will be defined.

Union Security--A contract between the union and management defining the union's relationship with the working force, for example, establishing a union shop.[1]

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[1]John Weston Walch, Complete Handbook on Right-To-Work Laws (Portland, Maine: John Weston Walch, Publisher, 1957), p. 25.

Eight varying degrees of union security defined as follows:[2]

1. Yellow-dog Contract--An agreement, written or oral, made between a company and an employee under which, as a condition for being hired, he agrees not to join a union. This kind of contract was made illegal by the Federal Norris-LaGuardia Act of 1932.

2. Anti-union Shop--This, too, is now illegal in any concern carrying on interstate commerce. The employer in such a shop will not knowingly hire a man who belongs to a union but does not actually make the worker commit himself not to join one. Prohibited by the Wagner Act in 1935, and also by the Taft-Hartley Act, this arrangement is now, of course, almost defunct.

3. Open Shop--A company in which union membership is not a condition for getting or keeping employment, and for which presumably, union and non-union men can both work without discrimination. If the union has a majority of workers in its ranks, the employer must, of course, bargain with the union representatives concerning hours, wages and other such matters. This is in compliance with the present Taft-Hartley law. The union, in such bargaining, would represent the non-union workers as well as its own members.

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[2] Ibid., pp. 2, 3, 21-26.

4. Agency Shop--Union status, agreed upon by the company, in which all employees must either belong to and pay dues to the union, or if not members of the union, pay a service charge to it for representation in collective bargaining. This is a form of union security not very common in the United States, but quite common in Canada. Employees need not be union members, but must pay a regular fee to the union for representing them in bargaining with the employer.

5. Maintenance of Membership--No one is required to join a union as a condition of employment. However, it does require those who voluntarily join a union to maintain their membership for the duration of the contract, or forfeit their jobs. The company and the union agree to permit all workers to decide for themselves whether they want to join the union or not. They are usually given a fifteen to thirty-day escape period in which those who are currently union members can resign. But once the decision is made to join the union, such members are required to maintain that membership as a condition of employment for the duration of the contract.

6. Preferential Shop--Special union status agreed to by a company in which union members are given preference over nonmembers, particularly in hiring and layoffs. If the union cannot furnish new workers, the employer may hire nonunion workers. Sometimes these nonmembers can keep their jobs only until the union can find replacements for them.

7. Union Shop--That status, agreed to by the company, in which union membership is agreed to as a condition of employment after a trial period, usually of thirty to sixty days, in which union membership is not required. This is the most common form of union security today. Under it, the employer is allowed to hire anyone to work for him that he desires. However, after a specified number of days the new workers have to join the union in order to continue in this employment.

8. Closed Shop--Union status, agreed upon by the company, under which union membership is a requirement of initial or continued employment. Under this type of provision, a worker must be a member of the union, or join the union immediately, in order to secure the desired employment. There are two kinds of closed shop agreements. The first is that existing when there is a closed shop with a closed union. Here the employer is restricted in his hiring to men already on the union membership rolls. The other form is the closed shop with the open union. Here the worker must join the union which accepts his membership concurrently or just in advance of his getting the job. The closed shop is illegal under the Taft-Hartley law, but continues to exist, as least tacitly, in some occupational fields.

Related terms are defined in the glossary.

III. ORGANIZATION AND PROCEDURES

The remainder of this thesis is divided into five chapters. Chapter two is entitled, "A Summary of American Labor Legislation Dealing With Union Security." This chapter contains a summary of American labor legislation leading up to the right to work issue.

Chapter three is entitled, "Pros and Cons of Right-To-Work Laws." Arguments for the pro or affirmative will be presented first. These arguments come mainly from the Chamber of Commerce of the United States and the National Right to Work Committee. Next, the con or negative side will be discussed. Labor organizations, of course, issue the bulk of this material. Thirdly, statements both pro and con by well-known persons will be listed.

Chapter four, entitled "Right-To-Work Legislation," deals with the state right to work laws themselves. The general characteristics of these laws are presented briefly. The nineteen states which have these laws are listed along with the states that have rescinded these laws. The proposals for a national right to work law are discussed along with some proposed substitutes for right to work laws.

Chapter five, entitled "The Right-To-Work Issue in Kansas," is devoted to a special presentation of the development of the right to work issue in the writer's own state. The

result has been the recent passage of a right to work law in this state.

Chapter six is a summary chapter. The paper contains two appendices. Appendix A consists of statistical information both pro and con as to the economic effects of right to work laws. This appendix is intended to support chapter three. Appendix B is a text of the actual state right to work laws themselves. It is intended to support chapter four.

CHAPTER II

A SUMMARY OF AMERICAN LABOR LEGISLATION DEALING WITH UNION SECURITY

The history of the right to work movement is closely linked with that of American labor legislation and cannot be told without consideration of the latter. Both of these are inherent in the development of trade unionism itself.[1]

Donald R. Richberg in his recent book Labor Union Monopoly--A Clear and Present Danger[2] states that, "Americans are more out-of-date and ill-informed concerning the realities of the labor movement in the United States than they are in any other area of public interest."[3]

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[1]For a good brief history see United States Department of Labor, Bureau of Labor Statistics, Brief History of the American Labor Movement (Washington: Government Printing Office, 1957). For a discussion in greater detail of the development and activities of the labor movement in the United States see Mary R. Beard, A Short History of the American Labor Movement (New York: Macmillan Company, 1942); Foster Rhea Dulles, Labor in America, A History (New York: T. Y. Crowell Company, 1955); or Selig Perlman, A History of Trade Unionism in the United States (New York: Macmillan Company, 1922).

[2]Donald R. Richberg, Labor Union Monopoly--A Clear and Present Danger (Chicago: Henry Regnery Company, 1957), p. v.

[3]Mr. Richberg was co-author of the Railway Labor Act of 1926 and of the National Industrial Recovery Act of 1933. He attempted reconciliation of industry-labor-public interests as the last head of the NRA in 1936. Over twenty years later, he wrote this book to show how the labor movement has been used by the labor bosses, in cooperation with a compliant

Labor unions go back further into American history than most people are aware of, and strikes and other labor disturbances predate even unions. Journeymen tailors struck successfully in New York in 1768 and journeymen printers demanded and received a wage increase in New York in 1778. John Weston Walch, in his right to work handbook, divides the history of unionism in this country, especially as far as legislation on the national level is concerned, into three periods.[4]

The first period was from the time of the Industrial Revolution until 1932. This long period of years brought scarcely any national labor legislation. During this time, however, there was a change from actual hostility towards labor organizations to a gradual acceptance of them. The second period from 1932 to 1947 was characterized by active governmental support for union activities. The third period starting in 1947 with the Taft-Hartley Act and extending down to the present has seen a swing of the Government towards a more neutral position in the struggle between labor and management.[5]

([3]cont.) government, to establish dictatorial power over the American economy and to further socialistic political objectives. The "clear and present danger" of which he writes is both to the Nation and to the labor movement itself.

[4]John Weston Walch, Complete Handbook on Right-To-Work Laws (Portland, Maine: John Weston Walch, Publisher, 1957), p. 9.

[5]Ibid.

During the first half century of American history, there was no federal labor legislation of any importance. Labor disputes which found their way into the courts were decided under the common law, this early law coming from English precedent. At that time in England all combinations of workers to improve their working conditions were held to be criminal conspiracies. The theory behind this was that union organizations were injurious to employers. This common law doctrine was challenged in America but, nevertheless, the earlier cases ended with convictions. Public opinion gradually stopped regarding labor unions as harmful as they became more common. Beginning in the 1830's, most juries began acquitting persons under the charge of conspiracy. Not until 1842 did a court completely break with the English precedent. In that year the Massachusetts Supreme Court, in the case of Commonwealth v. Hunt, sanctioned a strike for the closed shop by saying, "We think that associations may be entered into--and yet so far from being criminal or unlawful, the object may be highly meritorious and public spirited."[6] Historians usually think of this decision as the cornerstone of American industrial liberty. Other State courts soon followed the Massachusetts precedent. Less than forty years before, in 1806, eight

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[6] Ibid.

shoemakers in Philadelphia were convicted of criminal conspiracy in the famous Cordwainers' Case.

The labor movement in America lost strength between 1840 and 1860 due to two depressions, but from 1860 unionism increased rapidly.[7] Employers began to look for a new legal weapon with which to combat the increasing power of organized labor. They came upon the injunction in 1883. A long line of court decisions before 1883 gradually recognized "the right to do business" as a property right. Courts began to say that an employer could suffer loss, in addition to the damaging of his factory or machinery if his right to run his factory or sell his goods was interfered with in any way. Strikers, by picketing, attempted to stop employers from obtaining new employees, and through the boycott they tried to stop them from selling their goods. The courts, through use of the injunction, began to restrain these strikes and boycotts. The injunction then became highly popular with employers when faced with these problems.

Among the strongest legislative demands of organized labor for many years, was relief from injunctions. Much of labor's distrust of courts, today, is seated in the past use of injunctions by employers.

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[7] Ibid., p. 10.

At this point, the writer should like to call the reader's attention to the Sherman Antitrust Act of 1890. The Act being aimed at big business, it will be remembered that it makes it a criminal offense to form a "contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade and commerce among the several states, or with foreign nations. . ." or to "monopolize, or attempt to monopolize, any part of trade or commerce among the several states, or with foreign nations. . . ."[8] Labor hailed the passage of this act; but to its surprise, the Sherman Act was held to apply to the organizing and strike activities of the unions themselves. This was a blow to organized labor.

The unions believed that they had scored a great victory in 1914, when Congress passed the Clayton Act. Congress wrote into the act a long list of normal strike activities, and provided that these should not be regarded as in violation of any law. It specified that the federal courts should not issue injunctions against them under any circumstances. The Clayton Act was hailed by labor leaders as the Magna Carta of American labor. The courts, however, determined that the section listing legitimate strike activities was nothing new. It

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[8]Lloyd G. Reynolds, Labor Economics and Labor Relations (New York: Prentice-Hall, Inc., 1954), p. 339.

contained the words "peaceably" and lawfully," and the Supreme Court said that what constitutes "peaceable" and "lawful" activity was up to the courts to decide.[9]

In 1930, the unions were not much better off than they had been in 1880.

A new phase in labor legislation began in 1932. Labor organizations began to ask for and receive the active backing of Congress for the first time. The first step was the Norris-LaGuardia Act, sometimes known as the Anti-Injunction Act. The reasoning behind this act was that there could be no liberty of contract between individual workers and large corporations due to the superior power of the latter. It said that workers, therefore, must be free to form unions of their own choosing without molestation from their employers.

The act also stated that, therefore, the power of the Federal courts to issue injunctions against labor practices must be limited in certain ways.[10] The law forbid the promiscuous use of injunctions without either a hearing of both sides beforehand or the existence of very urgent circumstances and a bond posted by the employer for damages. The employer has to show that he would suffer irreparable loss if the

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[9] Ibid., p. 281.

[10] Walch, op. cit., p. 11.

injunction were not obtained. This law also forbid yellow-dog contracts, making them unenforceable at law.[11]

The next major piece of labor legislation was the National Industrial Recovery Act of June, 1933. It was passed by the Roosevelt Administration under the New Deal. This was primarily an anti-depression measure, but it had for labor the famous Section 7-A. This section stated that:

> Every code of fair competition. . . issued under this title shall contain the following conditions: (1) That employees shall have the right to organize and bargain collectively through representatives of their own choosing and shall be free from the interference. . . of the employers. . .; (2) That no employee, and no one seeking employment, shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing. . . .[12]

The section stated that every industrial code would have to contain provisions guaranteeing to workers the right to organize and bargain collectively through representatives of their own choosing, with no interference or restraint by employers. This was the first time this right had been legally protected. However, in 1935, the United States Supreme Court, in the case of Schechter Poultry Corp. v. U. S., declared the NIRA to be unconstitutional.[13]

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[11] Ibid.

[12] "The Question of Required Union Membership," The Congressional Digest, 36:228, October, 1957.

[13] Ibid.

Labor organizations were supported by the Roosevelt Administration during the period of the New Deal. They began to work for new legislation to insure recognition of the collective bargaining principle. As the result of their efforts, the National Labor Relations Act, more commonly known as the Wagner Act, was passed in July of 1935. The act stated:

> that nothing in this Act shall preclude an employer from making an agreement with a labor organization . . . to require as a condition of employment membership therein if such labor organization is the representative of the employees . . . . [14]

By Federal law the closed shop was upheld as a practice for industries, other than railroads, in interstate commerce. The Act made it unlawful for the employer to refuse to recognize a free and independent union for purposes of collective bargaining on wages, hours, and conditions of work. It forbid the employer, of course, to fire a man because he belonged to a union. But it also forbid an employer to refuse to hire a man because he belonged to a union.

The Wagner Act was strongly supported by organized labor, and it created strong unions. However, the Wagner Act had its shortcomings. It had made no provisions for the kind of conditions it had helped to create. There was no protection when rival unions had jurisdictional disputes over organizing. The act did little or nothing to insure responsibility

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[14] Ibid.

on the part of the union. Employers had objected for many years to the act as being one-sided.[15]

During World War II many strikes occurred, some in strategic industries, but most of them were of short duration. After the war, labor and management were ready for their big battle. Many strikes were called, and with an already existing scarcity of goods public opinion turned against labor.

By this time, the large unions had grown from small groups to strong organizations whose futures were no longer in doubt. Efforts of Congress to help curb the growing power of unions resulted in the passage of the Labor-Management Relations Act of 1947, commonly known as the Taft-Hartley Act, named after its two sponsors.[16]

No major act of Congress has ever had more study and debate, and such bitter opposition by labor, than the Taft-Hartley Act that was approved on June 23, 1947. Hearings to amend the act have been held in each session of Congress since the passage of the act, but no major changes have yet been made. The Taft-Hartley Act regulates labor relations only in those businesses in interstate commerce.[17] It offers benefits

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[15]Walch, op. cit., p. 13.

[16]Ibid.

[17]"The Question of Required Union Membership," op. cit., pp. 228-29.

for three groups: employers, the general public, and workers.[18] It is not within the scope of this paper to do more than just mention these.

The real seat of the right to work controversy comes from the provisions of Taft-Hartley in connection with union organization in general. It outlaws the closed shop and all preferential hiring agreements. It does, however, permit the union shop under certain conditions, and maintenance of membership. Originally, a union had to submit evidence showing that at least thirty per cent of the workers in a unit wanted the union shop, and even then the National Labor Relations Board had to conduct an election by secret ballot to see whether or not the majority of the workers really wanted the union shop.

A 1951 amendment to the law abolished the requirement for these elections after it was found that the unions were winning ninety-five per cent of them. The provision for union shop contracts gives any worker thirty days after beginning a new job before he is compelled to join a union.

While the Taft-Hartley Act does not itself ban the union shop, it specifically leaves the states free to do so by state law. Section 14 (b) of the Act states:

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[18] Walch, op. cit., p. 14.

> Nothing in this Act shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any State or Territory in which such execution or application is prohibited by State or Territorial law.[19]

It is this Section 14 (b) which is the basis for the right to work laws that are now in force in nineteen states. These laws will be discussed in chapter four. More will be said about the Taft-Hartley Act and its Section 14 (b) in regard to right to work laws in chapter four. The Railway Labor Act of 1926 has purposely been left out of this discussion, as it will be mentioned in connection with right to work laws in chapter four.

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[19] Ibid., p. 15.

CHAPTER III

PROS AND CONS OF RIGHT-TO-WORK LAWS

This chapter discusses the pro and con arguments that have resulted from heated discussion of the right to work laws. These statements that have been made by both sides of the controversy are very convincing. Since it is not the purpose of this study to decide whether the right to work laws are good or bad, the reader should carefully examine these pros and cons in order that he may decide for himself whether he would support or oppose such laws and whether they are good or detrimental for the economy. It should be mentioned at the outset that not all the advocates of either side adhers to every argument for that side. The first side to be examined is the pro or affirmative side.

I. PROS

Generally speaking, there are three distinct types of affirmative arguments for right to work laws. The first of these is the "anti-union case." Proponents of this idea stress the damaging side of unions today in relation to workers, business, and the general public. They then offer right to work laws as a means of weakening the union grip on the American economy.

The second is the "pro-union case." Here, the weaknesses of unions today are stressed only so far as the workers and the unions themselves are concerned. Right to work legislation is offered as a means of cleansing and strengthening unions.

The third and most widely used argument is the "moral case." Here, the proponents of right to work laws deal with fundamental rights. They attempt to show that the right to work without having to be a member of a labor union or organization outside the government is important enough to justify the whole affirmative position.[1]

Affirmative arguments published in pamphlet or leaflet form by any of the organizations supporting right to work laws will usually contain examples of each of these three types of cases, the moral case being perhaps the most convincing. No purpose would be served by classifying these three classes of affirmative arguments any further, so this has not been done. They are mentioned in order to give some idea of the approaches taken by advocates of right to work legislation.

There are various groups of organizations which support either side of the right to work controversy. Some

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[1]John Weston Walch, Complete Handbook on Right-To-Work Laws (Portland, Maine: John Weston Walch, Publisher, 1957), p. 41.

of the organizations which oppose the labor unions by advocating right to work laws are: (1) National Right to Work Committee, (2) Chamber of Commerce of the United States, (3) National Association of Manufacturers, (4) American Farm Bureau Federation, and (5) The National Grange.

The purpose of the National Right To Work Committee may be stated as follows:

> The National Right to Work Committee was formed to oppose a dangerous and revolutionary concept that has had frightening acceptance in America in recent years--that a free citizen must belong and pay dues to a private labor organization in order to work and earn a living. Its supporters and members believe that forced membership in any private organization, as a prerequisite for earning a living, is a violation of every principle of individual freedom on which America was founded, and that it raises a serious threat to the free democratic system which has made our country the greatest in the world. The Committee is conducting a national educational and informational program to point up the evils of this practice, and the threat it offers to the individual freedom of every American.[2]

According to the committee itself, anyone who believes in the inherent right of an American citizen to work for a living without paying tribute to any private organization for the privilege is welcomed as a member. The committee was formed by a small group of men from several states.

The policy of the committee is set by a board of directors, including manufacturers, merchants, professional men,

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[2]National Right To Work Committee, The Right To Work (Washington: National Right To Work Committee)

and working men and women from many sections of the country. Board officers are elected annually. There is no rigid schedule for financial support. The objective of the committee is to reach as many citizens with its material as possible. This is done regardless of their ability to pay.

Payments of dues are left to the discretion of the members. Payments received in the past have ranged from $1 to $25 for individual members, to several thousand dollars for large business firms. According to the National committee itself, it has a three-fold program for fighting compulsory unionism.

> 1. It is carrying out a nationwide education and public information program to spread the facts about union compulsion and individual freedom. Its backers believe that if the American people are fully informed about this threat to freedom and the American way of life, they will see that it is outlawed forever.
>
> 2. It is compiling information on the issue from all over the United States, and serves as a central clearing house for facts, advice and support to various groups anywhere in the nation who are interested in this issue.
>
> 3. It is offering an opportunity for Americans everywhere, in all types of work, professions and interests, to join up with others who believe, as they do, that forced membership and payments to any private organization in order to hold a job and earn a living are unconstitutional and completely contrary to the principles of individual freedom and right of choice on which this nation was founded.[3]

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[3] Ibid.

Most of the affirmative arguments examined in this section are taken from sets of pamphlets and folders received from organizations in the form of right to work "kits" or "portfolios." They consisted of both reprints of articles from magazines and journals and information compiled by the research departments of the different organizations. Most of this information is quite repetitious and very lengthy. Material received from two of the leading organizations in support of right to work laws--Chamber of Commerce of the United States and National Right To Work Committee--was used in the presentation of the pro arguments. The great amount of information received from these two leading proponents of right to work laws has been analyzed by the writer so that the primary arguments for the affirmative may be outlined and examined in the presentation which follows.

Advocates of right to work laws in this section stress the individual liberties of the worker as opposed to the group. The Chamber of Commerce of the United States states the issue in this fashion:

> Too often in discussing right to work legislation we become involved in questions that cloud or obscure the real issue. In order to avoid that pitfall, let's remind ourselves that--
>
> The issue is <u>not</u> whether labor organizations in general are good or bad--
>
> The issue is <u>not</u> what benefits workers can gain through a voluntary labor organization--

The issue is only this:

> Should any American be forced, under penalty of loss of livelihood, to join and support a particular private organization, whether it be a union, church, civic club, or any other group?[4]

It is the Chamber of Commerce's belief that this issue is exceedingly important. Thus, our country is dedicated to the protection of individual liberties--freedom for the individual, including protection of his right to choose or reject, so long as the rights of others are not affected. Laws protecting this right are necessary to insure the freedom of all Americans. Right to work laws accomplish this protection for the employee by assuring him the right to work at a job without being forced by anyone--the government, an employer, or a union--to join or contribute to a particular labor organization.[5]

In response to labor's claims that right to work legislation weakens the collective bargaining process, the Chamber of Commerce says that like federal law, state right to work laws recognize and protect an employee's right to join with other employees for the purpose of collective bargaining. Unlike federal law, however, the state laws recognize and

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[4]Chamber of Commerce of the United States, The Case For Voluntary Unionism (Washington: Chamber of Commerce of the United States), p. 4.

[5]Ibid.

protect his right to choose which, if any, labor organization he wishes to join.[6]

The Chamber of Commerce asserts that right to work statutes protect the rights recognized by national labor legislation. They point out the fact that public policy declaration in labor matters expressed in the Norris-LaGuardia Act recognizes the right protected by right to work laws, and then they quote a portion of section two of this act. The writer will quote from this section, and will underscore the phrase quoted by the Chamber of Commerce as follows:[7]

> Whereas under prevailing economic conditions, developed with the aid of governmental authority for owners of property to organize in the corporate and other forms of ownership association, the individual unorganized worker is commonly helpless to exercise actual liberty of contract and to protect his freedom of labor, and thereby to obtain acceptable terms and conditions of employment, wherefore, though he should be free to decline to associate with his fellows, it is necessary that he have full freedom of association, self-organization, and designation of representatives of his own choosing, to negotiate the terms and conditions of his employment, and that he shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection . . . .[8]

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[6] Ibid.

[7] Ibid.

[8] The Statutes at Large of the United States of America, from December 1931 to March 1933, Vol. XLVII, Part I, 72d Congress, 1st Session, Ch. 90, H. R. 5315, Public, No. 65, March 23, 1932 (Washington: Government Printing Office, 1933), p. 70.

The Chamber of Commerce also states the same thing about section seven of the Taft-Hartley Act, often called the "heart of the Act."[9] Thus, the statement is as follows:

> Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities **for** the purpose of collective bargaining, or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section 8 (a) (3).[10]

The Chamber believes that--"unfortunately, however, even though our national legislation recognizes this right, it fails to fully protect it."[11] It is this section 8 (a) (3), of course, that permits the negotiation of union shop contracts.

> By permitting contracts that require membership in a particular labor organization as a requisite of employment, it allows a labor organization and an employer to agree to deprive an employee of this right.[12]

As the Chamber of Commerce sees it, it is difficult to reconcile this permission with three of the five requirements

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[9] The Case For Voluntary Unionism, loc. cit.

[10] United States Statutes at Large, Vol. 61, Part 1, 80th Congress, 1st Session, Ch. 120, H. R. 3020, Public Law, 101, June 23, 1947 (Washington: Government Printing Office, 1948), p. 140.

[11] The Case For Voluntary Unionism, loc. cit.

[12] Ibid.

imposed on employers by the Taft-Hartley Act.[13] To effectuate the policies of the act, the National Labor Relations Board is directed to prevent certain specified unfair labor practices by employers or labor organizations or the agents of either. The act forbids an employer:

> 1. To interfere with, restrain, or coerce employees in the exercise of their right to organize and bargain collectively or to refrain from any or all such activity, except under a legal union shop.
>
> 2. To dominate or interfere with the formation or administration of any labor organization or to contribute financial or other support to it.
>
> 3. To discriminate in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization.
>
> 4. To discharge or otherwise discriminate against an employee because he has filed charges or given testimony under the act.
>
> 5. To refuse to bargain collectively with the representative chosen by his employees subject to the provisions of the act.[14]

The three requirements referred to by the Chamber are these under which the employer is: (1) prohibited from interfering with employees in the exercise of the right of association, (2) prohibited from contributing support, financial or otherwise, to a labor organization, and (3) prohibited from

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[13] Ibid., p. 6.

[14] "Battle Over The 'Right-To-Work' Laws," The Congressional Digest, 35:39, February, 1956.

discriminating in employment to encourage or discourage union membership. They claim that if an employee is required, as a requisite of employment, to join a particular labor organization: (1) the exercise of his right of association is interfered with, (2) the employer has contributed the most potent support possible to a labor organization, and (3) the employer does discriminate to encourage membership in a particular labor organization.[15]

It appears, in concluding the United States Chamber of Commerce's views, that they believe that right to work statutes afford protection for a right recognized by national legislation. They are of the opinion, also, that an employee's right to decline to associate should be protected as well as his right to associate; and that, furthermore, right to work laws correct the obvious inconsistencies of the Taft-Hartley Act that are created by permitting compulsory unionism agreements.

One of the first conflicts always encountered when discussing the right to work controversy is strong differences as to whether the right to work laws are properly named. Those who are opposed to them argue that the very name "right to work" is a misnomer and a fraud, and that the laws should more

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[15] The Case For Voluntary Unionism, loc. cit.

properly be called "right to wreck" laws, meaning the right to wreck our labor unions. The National Right To Work Committee believes that the laws restricting compulsory union membership agreements are commonly and quite accurately called right to work laws.

> The appellation is derived from one of the two fundamental principles of American constitutional law which the right to work statutes implement in this field. The first of these principles is the right to work, and the second is the right of association.[16]

The Committee says that right to work laws do not purport to create new rights but only to protect fundamental rights from invasion through imposition of compulsory unionism as a condition of employment. They do not directly create any jobs, but by helping to keep the economy free and by keeping opportunities open, they inevitably in the long run lead to more and more chances for employment.[17]

The National Right To Work Committee also says that the freedom of association necessarily has both an affirmative and a negative side--it guarantees the right not only to join but to refrain from joining any private organization or association.[18] It believes that:

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[16]National Right To Work Committee, The Legal and Moral Basis of Right To Work Laws (Washington: National Right To Work Committee), p. 1.

[17]Ibid., p. 4.

[18]Ibid., p. 6.

> The freedom of association springs from the liberty of the individual to order his life as he sees fit, to choose where he will work, and what, if any, church, political party, fraternity, lodge, society, league, club or other private organization he will join and support.[19]

The Committee points out that the five most attempted justifications of compulsory unionism, by labor groups, are as follows: (1) that the arrangement grows out of a voluntary agreement between employer and union which should be respected, (2) that it is justified by the necessity for union security, (3) that it is only fair to require all workers to pay for union services, (4) that the principle of majority rule requires all workers to belong to a union when a majority are members, and (5) that the arrangement makes a valuable contribution to labor peace and productivity.[20] They do not believe that any of these grounds or all of them together furnish sufficient justification for compulsory union membership.

The National Right To Work Committee states, in reply to justification number one, that compulsory unionism is not justified under freedom of contract.[21]

> The plea that the arrangement is merely a voluntary agreement between private parties is not only specious but is an unworthy attempt to avoid the application of constitutional principles.

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[19] Ibid.

[20] Ibid., p. 10.

[21] Ibid.

> It is fallacious to characterize a union shop as a voluntary arrangement. Ordinarily it is not voluntary in any true sense. It is usually brought into existence by some form of pressure, some form of coercion exercised against the employer. It therefore may properly be regarded as coercive not only against employees who do not desire union affiliation but also as coercive against the employer.[22]

The Committee says that there once was such a thing in this country as freedom of contract with respect to union membership, but that day is no more. It believes that the freedom advocated by the proponents of compulsory unionism is distinctly a one-sided affair. They are not advocating full freedom of contract with respect to the matter of union membership, but only so much of that freedom as is consistent with their objectives. In the opinion of the Committee, they would not have the employer free to contract with employees that they will not join a union; rather the freedom of contract they seek is only a freedom of the employer to contract with union leaders that all employees must join a union.[23] The writer of this paper believes that what the National Right To Work Committee is trying to say is that "A yellow-dog contract by any other name should smell the same."

Another argument brought forth by the Committee is that the overwhelming majority of employers in the country are

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[22] Ibid.

[23] Ibid., pp. 10-11.

opposed to any form of compulsory union membership. Many of them have nevertheless agreed to the union shop because of the coercion of labor leaders by strikes or threats of strikes. In any field where the ruling influence is coercion, freedom of contract is a mockery. What the proponents of the closed shop and the union shop desire is preservation not of freedom of contract but of freedom of coercion.[24]

In 1941, President Roosevelt declared that under his leadership the government would never compel employees to join a union by government decree. He said, "That would be too much like the Hitler methods toward labor." The National Right To Work Committee has used this statement to point out that actually, these are the methods which are in substance and effect being employed today when compulsory union membership is authorized by law and put in force by unions in the exercise of tremendous powers granted them by law.[25]

Next, an excerpt from a reprint published by the Committee will be given.

> Just how "voluntary" has been the agreement between employer and the union? The overwhelming majority of employers are opposed to any form of compulsory union membership. The recent McClellan hearings have pointed up the fact that many of them have nevertheless agreed to the union shop because of the coercion of labor leaders

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[24] Ibid., p. 11.

[25] Ibid., p. 12.

> by actual strikes or threats of strikes and violence. Once in a while, there comes on the scene an organization courageous enough, like the Kohler Company of Wisconsin, to stubbornly fight back, and not to sit back and succumb to coercion. To submit would be the easy way out, but to recognize the right of the individual, of the worker, and fight for his right to join or not to join a union, is a much more difficult road to follow.[26]

In reply to justification number two, on page twelve, the National Right To Work Committee says that compulsory unionism is unnecessary for union security. It states that organized labor today has more security than any other type of private association or business organization. The Norris-LaGuardia Act, the National Labor Relations Act, the Railway Labor Act, and the exemptions from the antitrust statutes, not to mention comparable state laws, give unions a full measure of security. It gives the following opinion:[27]

> These statutory protections render the union plea for further security through compulsory unionism very hollow indeed. Employees are guaranteed the right to organize and bargain collectively through a representative of their own choosing and the employer is forbidden to interfere. When a union is selected by a majority of employees, the employer must bargain with that union. The union is vested with the power to represent and bind not only its own members but also all other employees in the bargaining

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[26]Martin Lu, Why Right-To-Work Laws Are A Necessity Reprint from Foreign Service Courier, Georgetown University, February, 1958 (Washington: National Right To Work Committee), p. 5.

[27]The Legal and Moral Basis of Right To Work Laws, op. cit., p. 15.

unit whether they be members of a different union or are nonunion men.[28]

One of the leading authorities in the field of labor relations is Selwyn H. Torff. The following paragraph from his book, Collective Bargaining, gives an accurate appraisal of the existing situation in the United States pointing to the baselessness of the plea that compulsory membership is necessary for union security.

> If the union-survival theory were to be accepted as the motivating basis for the demand for compulsory union membership today, there would be little support in reality for such a demand. The American labor movement has not been feeble for a long time; it is vigorous, aggressive, and effective. It is protected by law and fortified by strength. It is one of the most dominating, economic, political, and social institutions in the nation. It is beyond the capability of employers to destroy it, even if they so desired or attempted. And the day of attempts by employers to destroy unions as such seems long past; "union busting" exists today largely as a propaganda term. For the great majority of employers, labor unions and of the collective bargaining process are established facts of economic life. Whatever the compulsory union membership issue may once have involved it is no longer an issue that involves the survival of labor unionism in the United States.[29]

Martin Lu, a graduate student at Georgetown University, Washington, D. C., says that in this country nearly every union organized and grew as a voluntary association. He raises the question of whether the labor leaders can deny

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[28] Ibid., pp. 15-16.

[29] Selwyn H. Torff, Collective Bargaining (New York: McGraw-Hill, 1953), p. 75.

that their great power and influence today was through free choice of the union members. He is sure that most of them acquired their power and wealth through another media, i. e., that of corruption, vice, and gangsterism, like the Teamsters, Operating Engineers Union, and the Mine and Smelter Workers.[30]

In reply to justification number three, the National Right To Work Committee states that the nonunion man is not a free rider. To justify compulsory membership, the unions claim that the nonmember should not be allowed to be a free rider--to accept the benefit of union bargaining without paying his share of the expenses. Thus:

> Throughout the length and breadth of the country there are thousands of voluntary associations of every description whose activities benefit members and nonmembers alike. But universally they are supported by voluntary dues and contributions. The idea of forced payments to private organizations is fundamentally incompatible with the voluntary character of their association.
>
> Forced payments are equivalent to taxes. Taxation is a sovereign power and may be exercised by the government only, and not by a labor union or any other type of private association.[31]

The Committee believes that the free rider complaint, even if it were justified, would not entitle the unions to the form of relief they ask--which is to compel nonmembers to

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[30]Lu, op. cit., p. 6.

[31]The Legal and Moral Basis of Right To Work Laws, op. cit., p. 21.

join the union. They say that full relief would be afforded by requiring the nonmember to pay a fee for the services of the union as collective bargaining representative.[32] This is the "agency shop" as defined in chapter one, which permits a worker to pay union dues without actually being compelled to join the union. There is only a thin line of distinction between the two. Some groups, mainly religious ones, do not object to this kind of compulsion as long as they are not forced into becoming union members.

The Committee says, in connection with justification number four, that the principle of majority rule does not justify compulsory union membership. It is said that if the majority of employees unite in organizing a union, democratic principles require that their selection of that particular union should be binding on all. The Committee gives reasons why this conclusion does not follow:

> In the first place, while majority rule is properly applicable for controlling the internal affairs of a private association or a business organization, as well as those of an agency of government, it may not properly be invoked to force unwilling persons into membership in a private organization. The right to use force to compel adherence and submission to rule is limited to the government. No private organization like a labor union can lay claim to this prerogative of sovereignty.[33]

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[32] Ibid., pp. 21-22.

[33] Ibid., p. 25.

Lu said if this were not so, and if a victorious majority could compel a losing minority to join with them, why were not all the losing Democrats of 1956 compelled to abide and become a part of the winning Republican party?[34]

The committee asserts that even in affairs of government, majority rule is not absolute. The purpose of the Bill of Rights is to lay restraints upon the majority for the protection of the fundamental rights of minorities. It says that under constitutional government, majority rule cannot be employed as an instrument for the obliteration of minority rights.

Another argument is that majority rule in governmental affairs is exercised under conditions far different from those found in labor organizations. It is exercised within a democratic framework, with general elections at frequent and regular intervals, and subject to a strong system of checks and balances.

The Committee says that there is no correspondingly adequate system of checks and balances in labor unions, nor are democratic practices universally observed.[35]

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[34]Lu, op. cit., p. 7.

[35]The Legal and Moral Basis of Right To Work Laws, op. cit., p. 26.

In view of the last justification for compulsory unionism, number five, the National Right To Work Committee states that compulsory union membership makes no worthwhile contribution to labor peace.[36]

In bringing the discussion of these five attempted justifications of compulsory unionism to a close, the writer of this paper includes the following passage from Martin Lu's article:

> The ideal of compulsory union membership as a worthwhile contribution to labor peace is one of the greatest debacles put forth in recent times. During the years when the Railway Labor Act contained a Right to Work provision there was no apparent unrest among railroad employees because union men were required to work alongside non-union men. But with compulsion came violence, as seen in the four-year Kohler strike which is still in effect and in the Perfect Circle Company strike back in 1955. Forced unionism advocates have attempted to justify their claims by saying that compulsion is, of all things, "practical," that it will encourage labor-management "peace," a matter in which the public-at-large has an important stake. It may encourage peace, but the peace will be one of surrender. It is the type of peace that prevails under a dictatorship when all opposition has been liquidated.[37]

Maurice R. Franks, President of National Labor-Management Foundation and Editor of Partners Magazine, sums up the situation nicely and gives an indication of the course of action that should be followed in obtaining protection of the

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[36] Ibid., p. 27.

[37] Lu, op. cit., p. 9.

right to work of all workers. He believes that to outlaw compulsory unionism by obviously impermanent amendments to Federal labor law, subject to the political vagaries of Supreme Court decision, offers no effective solution. Franks thinks that to bring the right to work into the framework of our nation's Constitutional Bill of Rights, nothing short of an Amendment to the Constitution of the United States itself will prove effective. He says, "An Amendment to the Constitution can be secured only through intensive education at the state level--at the very grass roots of the American economy."[38]

He is sure that such education can be carried on only by the National and State committees dedicated to an overall, permanent objective--in short by the Right To Work Committees already in alert and hard-working existence.[39]

McLellan Smith, Washington news correspondent and a former member of the Newspaper Guild of America, says that the failure of the eighty-fifth Congress to enact really worthwhile labor reform legislation brings into focus the necessity that a major portion of the job be done at state levels through the enactment of right to work statutes.[40]

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[38]Maurice R. Franks, Warning! Danger Ahead! (Washington: National Right To Work Committee), pp. 6-7.

[39]Ibid.

[40]McLellan Smith, Why And How In Right-To-Work (Washington: National Right To Work Committee), p. 1.

In conclusion, the growing controversy over state right to work laws reflects an increasing awareness of the true significance of the closed shop, the union shop, and every other form of compulsory union membership. Proponents of right to work laws will say that it reflects an awareness of a threat to our free way of life inherent in compelling a man to join a private organization before he can hold any sort of a job in industry. They say that any form of compulsory union membership is bad, but it is worse to give a big, modern, country-wide union a monopoly of employment in a great national industry. The danger would be multiplied if compulsory union membership were to be enforced in all of the great industries of the United States.

Compulsory unionism presents a new version of an age-old issue--the issue of freedom versus organization, the liberty of the individual versus the power of the group.

The next section of this chapter will take up the negative arguments concerning right to work laws. Many of these same issues will be discussed, and new ones will be brought into the picture.

II. CONS

The leading organization opposing right to work laws is the combined American Federation of Labor and Congress of

Industrial Organizations. This organization is the largest federation of national unions in the United States. Some of the large national unions such as the Brotherhood of Railway Trainmen, International Brotherhood of Teamsters, International Association of Machinists, and United Steelworkers, are among other labor organizations that are fighting vigorously against right to work laws. Many church groups, especially Catholic groups, oppose right to work laws.

The writer has received a great deal of information from the American Federation of Labor and Congress of Industrial Organizations. In addition, information has been received from the California State Federation of Labor and from the Kansas State Federation of Labor. Most of it was similar in content to that received from the parent organization. California was one of the six states in which the right to work controversy was an issue in the recent November 4, 1958, general election. The right to work proposal was defeated in California. Kansas, on the other hand, passed its right to work amendment by a large majority. The arguments for the negative side of the right to work controversy that are discussed in this paper are taken from information published by the American Federation of Labor and Congress of Industrial Organizations, hereafter referred to in this paper as the AFL-CIO.

To begin this negative section, the writer will quote George Meany, President of the AFL-CIO. His views on right to work laws are expressed in Labor's View--"Right To Work" Laws, a small leaflet published by the AFL-CIO. Meany believes that:

> The so-called "right-to-work" laws are a patent fraud and deception upon the American people.
>
> These laws do not guarantee any right to work to any citizen of our land. The only country which has a real right-to-work law is Soviet Russia. There it has become not so much a right to work as a compulsion to work, or slave labor.
>
> Actually, the true purpose and effect of the so-called "right-to-work" laws in this country are to prohibit employers and unions from entering into collective bargaining contracts providing for union security.
>
> Thus, when stripped of their phony camouflage, the "right-to-work" laws are exposed as compulsory nonunion shop laws.
>
> Even the Taft-Hartley act, which is heavily weighted on the side of management, permits the union shop. But it also contains a trick provision which allows States to outlaw the union shop or other forms of union security. That's how the "right-to-work" laws had their genesis.
>
> In labor's opinion, the "right-to-work" laws, now in effect in 18 States, are economically unsound, undemocratic and morally reprehensible. Our opinion is shared by many businessmen, by leaders of the Protestant, Catholic, and Jewish faiths and by most unprejudiced persons who know the score in labor-management relations.
>
> Union security is vital to good labor-management relations. It frees the union from fear of being undermined or destroyed by inimical employers and thus paves the way for broader labor-management cooperation.
>
> The record shows that the fewest strikes take place in industries covered by union shop agreements.
>
> The argument is frequently made that the union shop denied the right to work to an individual who does not

want to join the union. This is not true. Such individuals have a perfect right to obtain work in plants not covered by union-shop agreements.

If the majority of workers in a plant want the union shop and if the employer is willing to enter into such an agreement, certainly the will of the majority should prevail.

How about the right of union members to refuse to work beside those who are perfectly willing to accept benefits won by the union but refuse to participate in any way in the efforts of their fellow workers to secure such benefits?

It certainly seems significant that the major sponsors of "right-to-work" legislation are the National Association of Manufacturers and the Chamber of Commerce.

Who ever elected them to defend the rights of workers? What is there in their record that they have any sincere concern for the welfare of working men and women?

The trade union movement, on the other hand, is dedicated to upholding the interests of all workers--nonunion as well as union. All the legislation we have sponsored--and that business organizations have consistently fought--such as workmen's compensation, the minimum wage law and social security, have benefited all workers, nonunion as well as union.

It is equally true that nonunion workers have benefited, to an appreciable extent, from higher wages and improved working conditions won by union members.

If "right-to-work" laws spread to other states, or a Federal "right-to-work" law is adopted, the direct consequence will be impairment of the trade union movement's effectiveness in maintaining the high American standard of living, with ultimate damage not only to all workers, but to the farmers and business as well.[41]

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[41]George Meany, Labor's View--"Right To Work Laws (Washington: American Federation of Labor and Congress of Industrial Organizations.

The AFL-CIO thinks that "right to work" is a high-sounding phrase, and that it sounds like the title of a full employment program--jobs for all. It says, "So-called 'right-to-work' laws give no one a right to work. 'Right-to-work' laws provide no 'rights.'"[42] It believes that the real aim of these laws is to undermine trade unions. The AFL-CIO is sure that these "right to work" laws interfere with the collective bargaining process, and hamper the improvement of the wages, hours, and working conditions of wage and salary earners. It claims that sub-standard wages and poor working conditions are major products of right to work laws.[43]

The AFL-CIO vigorously asserts that no one is deprived of any job because of the union shop--unless the individual himself decides to make nonmembership in a union a condition for accepting a job. It also says that the requirement that a worker join a union is only one of many qualifications involved in getting a job. It believes that union security is simply an expression of our democratic concept of majority rule; and to argue against union security is, in effect, to

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[42]American Federation of Labor and Congress of Industrial Organizations, Facts vs Propaganda, The Truth About Right To Work Laws (Washington: American Federation of Labor and Congress of Industrial Organizations), p. 1.

[43]Ibid., p. 2.

argue that the minority has even more rights than the majority.[44]

The AFL-CIO says that majority rule should obtain. From 1947 to 1951 the federal law required that a union shop, even where permitted by state law, was legal only if the majority of the employees voted for the provision. About 6.5 million workers voted; 91% of the valid ballots were cast for union security. AFL-CIO uses this fact to state that union security contracts are an expression of the democratic concept of majority rule.[45]

In respect to the "free rider" argument, the AFL-CIO makes the following statement:

> These laws place a liability on the local union since, under Taft-Hartley, it must represent fully and equally, all workers, whether or not they choose to belong to the bargaining-agent union. Union members are willing for the local to accept the job of representing all of the workers in a unit, but they wish each worker to join the local and participate in its government. "Right-to-Work" laws give an incentive to the "free rider," the person who takes the benefits but does not meet his obligations by joining the union.[46]

"Where 'Right-to-Work' laws are not on the books, there have been the greatest gains in peaceful labor-management

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[44] Ibid., p. 6.

[45] American Federation of Labor and Congress of Industrial Organizations, "Right-To-Work" Laws--A Short Summary (Washington: American Federation of Labor and Congress of Industrial Organizations)

[46] Ibid.

relations, purchasing power, and well-being of the community."[47] AFL-CIO is sure that social justice is set back by such restrictions, and that the undermining of the labor movement, through right to work laws, promotes discord, conflict, and instability.[48]

The AFL-CIO also believes that in an age where big corporations are getting bigger, strong unions are necessary to provide equality at the collective bargaining table between labor and management. In regard to this belief, it makes the following statement:

> "Right-to-Work" laws which would outlaw union security, penalize the workers and their union and promote imbalance between labor and management--at a time when corporations are at the strongest and most powerful stage in the country's development.[49]

In concluding this section on the negative arguments of right to work laws, the writer will present the essential position of the AFL-CIO. It takes the position that government should neither require nor prohibit union security as a condition of employment; it should be left for union and management bargaining, as are other conditions of employment. The union states its own opinion of the real issue as follows:

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[47] Ibid.

[48] Ibid.

[49] Ibid.

> The real issue is not whether one favors full union security (the "closed shop"), because that is already prohibited by federal law. Likewise the issue is not whether government should require people to join any union, any time, any place, as where government makes lawyers join the bar association in the case of an "integrated" bar. The issue is whether one favors the right to contract on partial union security, (the "union shop").[50]

So ends the discussion of the pros and cons of right to work laws. Next, some statements made by well-known persons, both on the affirmative and on the negative side will be considered.

III. STATEMENTS BY WELL-KNOWN PERSONS ON RIGHT-TO-WORK LAWS

Some views of well-known personalities toward the right to work issue are given in this section. Both sides of the controversy will be represented, and the pros will be quoted first.

Pro. Mrs. Eleanor Roosevelt, in her column, "My Day," wrote:

> I do not believe that every man and woman should be forced to join a union. I do believe the right to explain the principles lying back of labor unions should be safeguarded; that every workman should be free to listen to the plea of organization without fear of hindrance or of evil circumstances, and that he should have the right to

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[50] Ibid.

join with his fellows in a union if he feels it will help others and, incidentally, himself.[51]

President Elliot, of Harvard University, said:

> The surrender of personal freedom to an association is almost as great an obstacle to happiness as its loss to a despot or to a ruling class, especially if membership in the association is compelled and the association touches livelihood.[52]

Donald R. Richberg, outstanding authority on labor legislation and prominent in the Roosevelt Administration, said:

> The entire value of labor organization to the workers lies in this power of the workers to control their representatives. The basis of that control and the only assurance that it will continue, is found in the right and freedom of the individual worker to refuse to support an organization or a representative whose judgment or good will he does not trust. But how can a man trust his servant who assumes to be his master and says: "You must obey me, or I will cut your throat!"[53]

The noted liberal, Justice Brandeis of the United States Supreme Court, said:

> Absolute power leads to excesses and to weakness. Neither our character now our intelligence can long bear the strain of unrestricted power. The union attains success when it reaches the ideal condition, and the ideal condition for a union is to be strong and stable, and yet to have in the trade outside its own ranks an appreciable number of men who are nonunionist. In any free community the diversity of character, of beliefs, or taste--indeed mere selfishness--will insure such a supply, if the enjoyment of this privilege of individualism is protected by

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[51] The Case For Voluntary Unionism, op. cit., p. 14.

[52] Ibid.

[53] Ibid.

law. Such a nucleus of unorganized labor will check oppression by the union as the union checks oppression by the employer.[54]

The United States Supreme Court has said:

> There cannot be wrung from a constitutional right of workers to assemble to discuss improvement of their own working standards, a further constitutional right to drive from remunerative employment all other persons who will not or cannot participate in union assemblies. The constitutional right of workers to assemble, to discuss and formulate plans for furthering their own self-interest in jobs cannot be construed as a constitutional guarantee that none shall get and hold jobs except those who will join in the assembly or will agree to abide by the assembly's plans.[55]

Samuel Gompers was the first president of the American Federation of Labor, and was its guiding light for many years. After forty-two years as president, in his final presidential address to the AFL convention at El Paso, Texas, in 1924, he gave this advice to his followers:

> Where we have blundered into trying to force a policy or a decision, even though wise and right, we have impeded, if not interrupted, the realization of our aims.
>
> No lasting gain has ever come from compulsion. If we seek to force, we but tear apart that which, united is invincible . . .
>
> As I review the events of my sixty years of contact with the labor movement and as I survey the problems of today and study the opportunities of the future, I want to say to you, men and women of the American labor movement, do not reject the cornerstone upon which labor's

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[54] Ibid., p. 15.

[55] 335 U. S. at 531.

> structure has been builded--but base your all upon voluntary principles and illumine your every problem by consecrated devotion to that highest of all purposes--human well-being in the fullest, widest, deepest sense.
>
> We have tried and proved these principles in economic, political, social, and international relations. They have been tried and not found wanting. Where we have tried other ways, we have failed.[56]

Con. Secretary of Labor James P. Mitchell, on Meet The Press, said:

> If I were voting in the state of California, I would vote against right-to-work legislation. I believe that the practice in American industrial relations is such that the union shop which, after all, comes about from an agreement between management and labor is a perfectly legal, a perfectly moral arrangement.[57]

He also remarked:

> I believe that when employers and unions representing a majority of their employees agree on a union shop they should have the right to have one.[58]

Paul M. Geary, Executive Vice-President of the National Electrical Contractors' Association, an important employer group, states:

> You cannot expect to have a responsible union unless you give it the means of achieving responsibility. That is, the union must have a measure of security . . . to

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[56] The Case For Voluntary Unionism, op. cit., p. 16.

[57] California State Federation of Labor, Secretary of Labor James P. Mitchell Opposes So-called "Right-To-Work" Law (San Francisco: California State Federation of Labor)

[58] Kansas State Federation of Labor AFL-CIO, Can You "Pass" This Quiz? (Topeka: Kansas State Federation of Labor)

improve production--the only road to greater benefits of labor, management, and public alike.[59]

Peter Drucker, the nationally prominent management consultant, states that:

> Union security is also in the social interest. Without it, no union can be expected to accept the responsibility for labor relations and for contract observance which our society must demand of a successful union movement.[60]

Samuel Gompers, as long ago as 1905, in an annual report to a convention of the AFL in November, 1905, said:

> We sometimes still hear the demagogic claim put forth by organized labor's opponents that the union shop, with its agreement with employers, is improper and unjust. Our opponents pretend that they stand for the liberty and the rights of workers. That, as a rule, "open shop" declarations were accompanied or immediately followed by wage reductions or the imposition of poorer conditions upon employees, is a fact patent to all who have given the subject thought and investigation. The union shop, in agreement with employers, is the application of the principle that those who enjoy the benefits and advantages resulting from an agreement shall also equally bear the moral and financial responsibilities involved.[61]

It is obvious that Gompers' views at this time differed from those in his farewell address in 1924.

The discussion will now proceed to chapter four, and a consideration of right to work legislation.

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[59] Ibid.

[60] Facts vs Propaganda, The Truth About Right To Work Laws, op. cit., p. 21.

[61] Ibid.

CHAPTER IV

RIGHT-TO-WORK LEGISLATION

Right to work laws are state laws and not Federal. There are two Federal acts involved in the controversy. Basic Federal labor law today is embodied in the Taft-Hartley Act of 1947, and in the Railway Labor Act of 1926, as amended in 1951, which governs the employee-employer relations of the railroad and airline industries. Congress passed the Railway Labor Act in 1926 as a result of serious labor trouble in the railroad industry in the 1920's, Unlike the Taft-Hartley Act which permits state action, the Railway Labor Act as amended in 1951 specifically provides for union security agreements in the railroad and airline industries, state action to the contrary notwithstanding.

The constitutionality of this act as amended and its conflict with existing state laws have been brought before the courts in several cases. It is not within the scope of the present study to consider these court cases now.

I. STATE RIGHT-TO-WORK LAWS

Protection of the right to work is one of the few areas in the labor relations field where the federal preemption doctrine has not been applied in the administration of the law. This fact points to the uniqueness of the entire right to work

topic. Section 14 (b) of the Taft-Hartley Act, it will be remembered, is responsible for this vital preserve of rights to the states. Section 14 (b) leaves the various states free to ban completely all forms of compulsory unionship, or to regulate adoption of union security agreements to the extent that they impose no more compulsion of employees than the Federal act.

Thus, the states are given the green light to go ahead and legislate against union security agreements and compulsory unionism, as long as this legislation is more restrictive than that provided by Federal law. As far as unions are concerned, it is this section that is the most hated provision of the entire Taft-Hartley Act.

List of states that have right to work laws. To date, nineteen states ban all forms of compulsory unionism. Kansas was the last state to adopt a right to work law. More will be said about the Kansas law in the next chapter. The states which have these laws, along with the date of their adoption, are: Alabama, 1953; Arizona, 1946; Arkansas, 1947; Florida, 1944; Georgia, 1947; Indiana, 1957; Iowa, 1947; Kansas, 1958; Mississippi, 1954; Nebraska, 1946; Nevada, 1952; North Carolina, 1947; North Dakota, 1947; South Carolina, 1954; South Dakota, 1954; Tennessee, 1947; Texas, 1947; Utah, 1955; and Virginia, 1947.

Significant characteristics of these states. This list of right to work states shows certain definite characteristics. Many of these states are in the relatively nonindustrialized southeastern section of the United States. Others are largely rural and agricultural states where union influence is not likely to be strong. These are located mainly in the wheat-belt region, and in the southwestern part of this country.

There is one exception to these generalities and that is Indiana. A right to work statute was passed in that state in 1957. This may be an indication of a trend toward the spreading of right to work legislation into the highly industrialized eastern states of our country. Right to work laws will be met with more opposition in these states than in any others, however.

Common characteristics of state right to work laws. Some of these laws are found in constitutional provisions, but in most states they take the form of statutes. There are six states which have constitutional amendments in this regard. They are: Arizona, Arkansas, Florida, Kansas, Nebraska, and South Dakota.

The core of the typical right to work statute consists of two simple provisions: first, that the right to work shall not be denied by reason either of membership or nonmembership in a labor union; and second, that any agreement or understanding which conditions the right to work in any occupation

upon membership or nonmembership in a labor union is illegal and void. Right to work laws have been upheld as consistent with federal and state constitutions.

In the nineteen states which ban all forms of compulsory unionism, naturally, the ban applies to intrastate businesses as well as to interstate businesses. Since even the union shop restrictions of Taft-Hartley do not apply to intrastate businesses, those states which have no state statute dealing with compulsory unionism leave the area free of any legislative restriction, so far as intrastate matters are concerned.

Ten states expressly permit, by statute, the execution of contracts requiring union membership as a condition of employment. They are: Colorado, Connecticut, Massachusetts, Michigan, Minnesota, New York, Oregon, Pennsylvania, Rhode Island, and Wisconsin. This group contains, of course, a larger percentage of industrialized states.[1]

States which have rescinded right to work laws. Four states have repealed their right to work laws. Maine repealed its law in May of 1947, New Hampshire did the same in June of 1947, and Delaware repealed its law in June of 1949. Other states have defeated by referendum proposed right to work laws.

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[1]A text of the nineteen state right to work laws is given in Appendix B of this paper.

II. PROPOSALS FOR A NATIONAL RIGHT-TO-WORK LAW

Consideration of civil rights in the 1957 session of Congress intensified interest in labor rights. Several Congressmen suggested adding right to work legislation at the national level. Congressman Wint Smith of Kansas introduced a bill to do just this, an amendment to the National Labor Relations Act. This bill would require that employers not discriminate against nonunion men, a situation analogous to the regulation now that they respect the "right to work" of union members. Since the amendments to our national labor legislation are quite short, this one will be reproduced in full.

Eighty-fifth Congress, 1st Session, H. R. 6331, in the House of Representatives, March 25, 1957, Mr. Smith of Kansas introduced the following bill which was referred to the Committee on Education and Labor.

> A Bill to amend the National Labor Relations Act for the purpose of prohibiting compulsory unionism, and for other purposes.
>
> Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that paragraph (3) of section 8 (a) of the National Labor Relations Act is amended to read as follows:
>
> "(3) by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization;."
> Sec. 2. Section 7 of such Act is amended by inserting a period immediately after "such activities" and striking out the remainder of the section.

Sec. 2. Paragraph (2) of section 8 (b) of such Act is amended to read as follows:

"(2) to cause or attempt to cause an employer to discriminate against an employee in violation of subsection (a) (3);."

Sec. 4. Section 8 (b) of such Act is amended by inserting "and" immediately after the semicolon at the end of paragraph (4), by striking out all of paragraph (5), and by redesignating paragraph (6) as paragraph (5).

Sec. 5. Section 9 (e) of such Act is repealed.

Sec. 6. Paragraph "Eleventh" of section 2 of the Railway Labor Act is repealed.[2]

As yet, nothing has come of the proposal; but it may be an indication of things to come. Right to work legislation on the national level may someday be a reality. It is likely, however, that this will never be accomplished without much bitter struggle on the part of labor unions.

III. PROPOSED SUBSTITUTES FOR RIGHT-TO-WORK LAWS

In regard to the "free rider" argument, proponents of right to work legislation have indicated that they would be willing to accept something less restrictive on unions than right to work laws; and something less restrictive, on the other hand, than compulsory unionism. This something referred to by them is the agency shop.

It will be remembered from the discussion in chapter one that under this type of agreement, employees need not

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[2]John Weston Walch, Complete Handbook on Right-To-Work Laws (Portland, Maine: John Weston Walch, Publisher, 1957), p. 16.

actually be union members, but must pay a regular fee to the union for representing them in bargaining with the employer. This is a form of union security that is less restrictive on the worker than the union shop. However, it provides more protection than the open shop. It is a compromise situation.

This form of union security is not very common in the United States, but is quite common in Canada. The agency shop, or its close cousin--maintenance of dues, is very likely to become more widely used in this country as opponents on right to work attempt to make compromises on the problem of compulsory versus voluntary unionism.

CHAPTER V

THE RIGHT-TO-WORK ISSUE IN KANSAS

The right to work battle began in Kansas in 1955 when both houses of the Kansas legislature passed a right to work bill. The bill--Kansas House Bill Number Thirty--was vetoed by Governor Fred Hall. An attempt to override the veto failed.

Some of the labor unions in Kansas had anticipated that this very thing would occur, even before Hall was elected Governor. The following statement from one of the union officers will provide some idea of the union strategy used in the 1954 election:

An officer of the Meat Cutters' Union in Kansas describes a union operation in selecting a governor.[1]

> Kansas is a Republican state, one of the strongest. The Democrats, on the other hand, have always been more favorable to the working man and we came mighty close to letting this knowledge lead us into a trap. Normally, it would have seemed logical to come out for the Democratic ticket, but things were going on in the Republican Party which changed the picture. Governor Fred Hall ran against the opposition of the Republican Party machine, and some of us felt we had the chance to break the Republican Party wide open at this time, so we registered from Democrat to Republican in order to be able to cast our votes for Governor Fred Hall in the primary elections. Fred Hall defeated the machine candidate and we supported him thereafter in the general election, although many Trade Unionists could not understand our strategy. Those of us who

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[1]Jack Barbash, The Practice of Unionism (New York: Harper & Brothers, 1956), pp. 255-57, citing Butcher Workman, p. 14, July, 1955.

supported Governor Hall felt from the beginning that, during the next session of the Legislature, both houses would pass the so-called "Right-to-Work" Bill and that our only chance was to have a man like Fred Hall in office to veto such a Bill.

Now everybody gives us credit for our political strategy because a "Right-to-Work" bill was not only passed by the two Houses, but was promptly vetoed by the Governor and finally not overridden.[2]

The unions were able to foresee the outcome of this initial right to work development in Kansas. The following was taken from an article in the New York Times after Governor Hall vetoed the right to work proposal.

Kansas Governor Rejects Bill Banning Union Shop Contracts. Governor Fred Hall vetoed today a so-called "right-to-work" bill that would have prohibited union shop labor contracts in Kansas. Mr. Hall asserted there was no need for the measure, which had cleared both branches of the Legislature with strong support from his own Republican Party. The Governor declared the rights of workers were adequately protected under the existing statutes.[3]

Here is the bill that Governor Hall vetoed:

Kansas House Bill No. 30--an act relating to the right to work, prohibiting denial of employment under certain circumstances, prohibiting contracts requiring membership or non-membership in a labor organization as a condition of employment, and prescribing punishment for the violation thereof.

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[2] Ibid.

[3] News item in the New York Times, March 29, 1955.

Be it enacted by the Legislature of the State of Kansas:

Section 1. The following terms when used in this act shall have the meaning ascribed to them in this section: (1) "Person" shall mean every individual, association, partnership, corporation, employer, or employee. (2) "Labor organization" shall mean any organization of employees, whether incorporated or not, organized for the purpose of dealing with employers concerning hours of employment, rate of pay, working conditions or grievances of any kind relating to employment.

Section 2. It shall be unlawful for any person or labor organization to deny any other person employment because of membership in or expulsion from a labor organization, or refusal to join or affiliate with a labor organization, or for any person or labor organization to enter into or extend the terms of any contract, written or oral, to exclude persons from employment because of membership in or nonmembership in a labor organization.

Section 3. Any person or labor organization or any officer or employee of such person or labor organization who shall violate any of the provisions of this act, or who shall aid or abet in such violation, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed $500 or by imprisonment in the county jail for not to exceed 6 months or by both fine and imprisonment.

Section 4. This act shall take effect and be in force from and after its publication in the statute book.[4]

The union's victory and Governor Hall's triumph over both his own party and the Democrats was not to last for long.

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[4]John Weston Walch, Complete Handbook on Right-To-Work Laws (Portland, Maine: John Weston Walch, Publisher, 1957), pp. 15, 16.

Kansas voters who favored right to work laws are credited with helping to bring about the defeat of Governor Hall when he sought re-election in the state Republican primary in 1956. His defeat was considered especially significant since it marked the first time in twenty-six years that Kansas voters had declined to renominate a Republican governor.

The issue was sure to come up again--and it did. During the 1957 session, the State House of Representatives, by a vote of 84 to 36, and the State Senate, voting 30 to 9, passed a resolution to submit the issue as an amendment to the State Constitution at the general election to be held in November of 1958.

Groups on both sides of the controversy then began to institute a full-scale campaign on the issue. The Kansas State Chamber of Commerce, of course, was one of the main forces at work in pushing the passage of the constitutional amendment. A state right to work committee, calling itself "Kansans For The Right To Work" was also instrumental in helping to secure the passage of the amendment. This committee with headquarters in Wichita published a great deal of information for dissemination to the general public. They sponsored radio and

television commercials and filmed movies in Kansas which were shown over television and loaned free or charge to interested groups throughout the state.

On the other side, the Kansas State Federation Of Labor AFL-CIO was not idle. It distributed a great deal of propaganda and was very vigorous in its campaign against right to work legislation. On labor's side, one interesting development was the formulation of a committee composed of Kansas educators and clergymen. The membership was made up of a good many professors from a few of the colleges in Kansas, and of numerous ministers. They called themselves "The Voluntary Committee Of Kansas Clergy and Educators Opposed To Amendment Number Three," and established headquarters in Wichita.

Their letter, addressed "Dear Colleague," was sent to many college professors throughout the state. The writer obtained one of these letters.

This committee set forth six basic negative reasons for their opposition to the right to work amendment in Kansas. These were:

(1) No Fundamental Right Involved. The right not to join a union is no more a fundamental right than the right not to vote in an election. Democracy pressures a participating electorate. Unionism presumes a participating

membership. The meaning and consequences of Amendment No. 3 have been hidden by the emotional appeals of the proponents of the Amendment.

(2) Unwarranted Government Intervention. It would constitute an unwarranted infringement by the government on the freedom of private parties to determine the conditions of employment by voluntary agreement.

(3) Not A Constitutional Issue. It deals with what it clearly a legislative not a constitutional issue. Union security is a matter which affects the balance of economic bargaining power between business and labor, an issue which requires continuous adjustment through the more elastic processes of the state legislature. It is a perversion of constitutional procedure to use an amendment for the benefit of a special interest group, whether it be business or labor.

(4) Extends Special Privileges to Business. It extends a special privilege to business in bargaining over the conditions of employment. Management along, in most cases, and a stockholder majority in the remainder can commit all of the corporation resources to their chosen labor policy. Stockholder opponents of the policy have no alternative. There are times when labor cannot offset this concentration of business resources without some measure of union security such as the union shop. Amendment No. 3 would reduce the power of labor in such cases but leave the greater power in the hands of business.

(5) Against Best Interest of Business-Labor Relations. Amendment No. 3 will prohibit national and regional union contracts in Kansas and drive leading industries to other states. Twenty years of collective bargaining experience and efforts to stabilize Labor-Management Relations will be swept away by granting unwarranted privileges to business. Amendment No. 3 will abolish worker responsibility to union leadership and destroy this responsibility in the collective bargaining process.

(6) A Punitive Not A Corrective Measure. It is punitive rather than corrective. Absolving individual workers from any responsibility to the organization which represents them is not a measure designed to preserve the bargaining process or to correct abuses by union leaders. On the contrary, we believe that responsible leadership requires responsible membership. Visualize the position of a

> business management which could not commit all of the owners of the business to a policy approved by the board of directors. The contractual obligations of the concern would be worthless.

This committee also states a positive as well as these negative views:

> In our capacity as educators and clergymen, we feel that we should make known our positive as well as our negative position. We do not wish to convey the idea that we are either pro-labor in the sense of being anti-business, nor anti-labor in the sense of being pro-business. Essentially, we wish to conserve the bargaining process by which disputes can be settled voluntarily between two adversary interest groups whose decisions represent the collective will of a majority of each group. We believe this to be a desirable alternative to compulsory arbitration which we think would follow a breakdown in collective bargaining. We favor any positive action which can be shown to be corrective of abuses on either side or which would facilitate the bargaining process. Amendment No. 3 fulfills neither of these needs.

The pro and con arguments set forth by the opponents were much the same as those discussed in Chapter three under pros and cons.

In any event, the November, 1958, general election in Kansas is history now; and as every Kansan knows, the right to work amendment was passed. Kansas is the newest right to work state at the present time. How long it will remain the newest or how long it will remain a right to work state at all remains to be seen.

CHAPTER VI

SUMMARY AND CONCLUSIONS

The right to work issue is the number one basic labor relations issue at the present time. This issue is likely to continue to be of utmost importance since it is only in its infant stage, having come upon the scene of labor relations only during the postwar years. Right to work will continue to be an issue of great controversy until it is either more accepted in the future or rejected in favor of compulsory unionism. It is not, however, very likely to ever pass completely out of the picture, even though the open shop may be tempered with something less restrictive--such as the agency shop or maintenance of dues.

Some type of compromise will have to be reached by the opponents on the issue between the strict adherence to individual rights or the idea that every individual should be allowed to choose whether or not he would join a union and the opposite view of strict majority rule without consideration of minority rights.

The material published on right to work has been so highly propagandistic, in view of the purpose for which it serves, that it is sometimes hard to see the real issues involved in the controversy. The writer hopes that he has presented the pro and con considerations of right to work in

such a way that the reader understands them and can form his own opinions as to whether he will be for or against these right to work laws.

It has not been possible to present every argument, either pro or con, on the issue--so this paper has taken the form of a general survey of the problem.

Besides the pro and con discussion, this thesis has examined the general characteristics of the actual right to work laws in the nineteen states which have them and also the general characteristics of the nineteen states themselves. None of these right to work states, with the exception of Indiana, is very industrialized. Most of them are states with chiefly rural economies, and are located in the south, western, and southwestern parts of this country where union influence has never been too strong.

One of two things may occur: Either many of these rural states may industrialize so much in the future that increased unionization and stronger public support for union activities may be able to drive the right to work statutes from the books--or the right to work movement will spread until it engulfs most of the heavily industrialized sections of the country, a trend which seems evident from the passage of right to work in Indiana. The writer believes that the latter assumption is most likely to be true.

The Sixth District's Representative Wint Smith's proposal for a right to work law at the national level has been examined. It will be interesting to watch the development of this new approach to the problem and to see whether it will ever reach its way through Congress to become law.

Some proposed substitutes for right to work laws have been discussed in this paper. These may be what is needed to help solve the problem, instead of right to work laws.

The section on the right to work issue in Kansas has brought the discussion down to the consideration of the development of the controversy within a particular state. It was responsible for the switch of the traditionally Republican state to a Democratic Governor when even Republican Governor Fred Hall's own party did not rally to his support in the primary election.

Most of the legal battles over right to work laws have, of course, been fought in the courts. But, aside from court contests, the fight over the right to work has been waged on two other fronts: the United States Congress and state legislatures. Amendments to Section 14 (b) of the Taft-Hartley Act have been consistently introduced in the United States Congress, but so far major amendments to the Taft-Hartley Act have not met with success.

A stalemate always exists in Congress when the Taft-Hartley Act is opened to major amendment. With this, the

right to work controversy has centered mainly in the state legislatures. In years when most legislatures do not meet, the controversy is concentrated on renewed efforts to amend the Taft-Hartley Act, and on court cases.

The following seventeen state legislatures were scheduled to meet in 1958 in either budgetary or regular sessions. Most of these meet annually. Kentucky, Virginia, and Mississippi meet regularly only in the even numbered years. Those meeting last year were: Arizona, California, Colorado, Georgia, Kansas, Louisiana, Maryland, Massachusetts, Michigan, New Jersey, New York, Rhode Island, South Carolina, West Virginia, Kentucky, Virginia, and Mississippi.

Right to work was an issue in six states in the November 4, 1958, general election. These states were: California, Colorado, Idaho, Ohio, the state of Washington, and Kansas. According to information received from the California State Federation of Labor, the right to work proposal was defeated in that state in the recent election by over a million votes.

Kansas was the only state passing a right to work law in the recent election, and theirs was in the form of an amendment to the Kansas Constitution. Many persons believed that the chief reason the Kansas "amendment number three" was passed in the election was due to the fact that the amendment was worded in such a way that the average person would

immediately vote for the proposal. They believe that most of the voters would probably not take the time to read the amendment anyway, even though it was very short.

This, no doubt, is partly true; but the fact remains that Kansas now does have a right to work law. And, in view of the increasing spread of right to work legislation among the states, this Kansas amendment is probably here to stay. Who can say what effect this new law will have upon the Kansas economy? It is still too early to determine, since the amendment was passed less than six months ago. It is only for the public to wait and observe the consequences of this new law--and they will be the judge of whether right to work will remain a part of the Kansas law, or whether they will think it undesirable and have it removed from the books.

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APPENDICES

APPENDIX A

STATISTICAL INFORMATION

TABLE 1

TRADE UNION MEMBERSHIP GROWTH*

1939-53

Right-To-Work States in 1953	% Increase 1939-53	Right-To-Work States in 1953	% Increase 1939-53
Arizona	257.1%	North Carolina	226.1%
Arkansas	171.6	North Dakota	119.0
Florida	211.7	South Dakota	185.2
Georgia	280.4	Tennessee	163.8
Iowa	115.4	Texas	239.2
Nebraska	153.1	Virginia	128.2
Nevada	246.0		
		Average	192.1%

Other States	% Increase	Other States	% Increase
Alabama**	163.4%	Montana	82.2%
California	228.4	New Hampshire	306.6
Colorado	184.1	New Jersey	221.7
Connecticut	267.2	New Mexico	184.1
Delaware	344.8	New York	113.8
Idaho	153.0	Ohio	170.8
Illinois	130.0	Oklahoma	157.3
Indiana**	222.4	Oregon	160.3
Kansas	232.8	Pennsylvania	108.6
Kentucky	83.1	Rhode Island	235.2
Louisiana***	259.3	South Carolina**	307.4
Maine	287.5	Vermont	130.6
Maryland	248.0	Utah**	167.1
Massachusetts	161.4	Washington	124.5
Michigan	294.6	West Virginia	45.9
Minnesota	145.4	Wisconsin	115.9
Mississippi**	284.6	Wyoming	68.1
Missouri	183.6		
		Average	187.8%

*Source of data: National Bureau of Economic Research, Inc., Thirty-sixth Annual Report, May, 1956.

**Enacted a Right-to-Work law since 1953.

***Louisiana enacted a Right-to-Work law in 1954 which was repealed in 1956 and replaced by one applying only to agricultural workers.

TABLE II

RETAIL SALES TRENDS*

Right-to-Work States in 1956	% of Increase 1948-1956	Right-to-Work States in 1956	% of Increase 1948-1956
Alabama	47.0%	Nevada	106.3%
Arizona	86.0	North Carolina	79.8
Arkansas	32.4	North Dakota	16.0
Florida	126.9	South Carolina	52.3
Georgia	65.5	South Dakota	8.3
Iowa	27.4	Tennessee	45.8
Louisiana**	65.1	Texas	55.0
Mississippi	47.5	Utah	50.9
Nebraska	26.6	Virginia	57.0
		Average	55.3%
Other States		Other States	
California	71.0%	Montana	37.0%
Colorado	58.7	New Hampshire	43.2
Connecticut	65.1	New Jersey	54.6
Delaware	44.9	New Mexico	94.5
Idaho	27.6	New York	37.8
Illinois	40.6	Ohio	61.2
Indiana***	42.4	Oklahoma	43.8
Kansas	35.8	Oregon	33.7
Kentucky	44.1	Pennsylvania	36.3
Maine	38.7	Rhode Island	33.6
Maryland	66.5	Vermont	29.4
Massachusetts	46.7	Washington	42.6
Michigan	56.4	West Virginia	29.2
Minnesota	31.0	Wisconsin	37.4
Missouri	38.2	Wyoming	29.8
		Average	45.0%

Right-to-Work states outgained the rest of the country by this percent - - - - - - - - - - -22.9%

*Compiled from: U. S. Department of Commerce 1948 Census of Business, and Sales Management, Inc., 1956 Survey of Buying Power.

**Louisiana had a general Right-to-Work law during this period. The law was repealed two years after its enactment and replaced by one applying only to agricultural workers.

***Indiana enacted a Right-to-Work law in 1957.

TABLE III

POPULATION TRENDS*

Right-to-Work States in 1956	Total Population % Change 1947-1956	Right-to-Work States in 1956	Total Population % Change 1947-1956
Alabama	6.6%	Nevada	65.8%
Arizona	61.9	North Carolina	17.4
Arkansas	- 1.1	North Dakota	13.7
Florida	49.1	South Carolina	18.1
Georgia	13.4	South Dakota	15.8
Iowa	7.3	Tennessee	9.5
Louisiana**	16.5	Texas	20.8
Mississippi	0.8	Utah	27.7
Nebraska	11.8	Virginia	14.1
		Average	20.5%
Other States		**Other States**	
California	36.6%	Montana	20.2%
Colorado	30.3	New Hampshire	10.5
Connecticut	13.5	New Jersey	17.0
Delaware	31.8	New Mexico	40.0
Idaho	19.7	New York	15.8
Illinois	13.1	Ohio	18.1
Indiana***	16.8	Oklahoma	4.9
Kansas	13.5	Oregon	26.2
Kentucky	7.6	Pennsylvania	7.5
Maine	6.6	Rhode Island	6.7
Maryland	25.1	Vermont	4.5
Massachusetts	5.1	Washington	20.6
Michigan	23.7	West Virginia	5.3
Minnesota	15.9	Wisconsin	15.8
Missouri	10.7	Wyoming	24.4
		Average	16.9%

Right-to-Work states outgained rest of country by this percent - - - - - - - - - - -21.3%

*Compiled from: U. S. Bureau of Census, Current Population Reports; Estimates of the Population of States: 1900 to 1949 (June 27, 1956) and Provisional Estimates of the Population of States, July 1, 1956.

**Louisiana had a general Right-to-Work law during this period. The law was repealed two years after its enactment and replaced by one applying only to agricultural workers.

***Indiana enacted a Right-to-Work law in 1957.

TABLE IV

WAGE AND PERSONAL INCOME TRENDS*

Right-to-Work States in 1956	Gross Earnings of Production Workers 1952-56 % Increase		Personal Income % Change 1947-1955
	Weekly	Hourly	
Alabama	22.1%	23.7%	53.6%
Arizona	19.3	21.6	117.2
Arkansas	19.3	21.9	33.1
Florida	16.6	20.6	123.1
Georgia	19.4	20.0	68.1
Iowa	16.8	19.8	43.6
Louisiana**	26.6	29.1	68.9
Mississippi	13.8	18.4	41.3
Nebraska	22.9	23.3	35.6
Other States			
California	18.6%	18.7%	81.1%
Colorado	22.4	23.3	64.8
Connecticut	17.5	18.6	72.2
Delaware	20.7	21.9	107.6
Idaho	12.9	12.0	30.7
Illinois	19.4	20.0	56.1
Indiana***	19.4	19.7	67.1
Kansas	18.2	20.2	37.2
Kentucky	18.4	24.2	58.2
Maine	15.0	15.6	41.7
Maryland	24.0	22.8	87.7
Massachusetts	13.8	14.7	52.0
Michigan	16.8	17.7	80.8
Minnesota	16.8	19.9	53.8
Missouri	17.6	20.3	62.8

*Compiled from: U. S. Dept. of Labor, Bureau of Labor Statistics, Employment and Earnings, Annual Supplement, June 1957 and U. S. Dept. of Commerce, Survey of Current Business, August 1949 and 1956. Figures are latest annual figures available; 1952 is the earliest year that wage figures were available for all states.

**Louisiana had a general Right-toWork law during this period. The law was repealed two years after its enactment and replaced by one applying only to agricultural workers.

***Indiana enacted a Right-to-Work law in 1957.

TABLE IV
(cont.)

WAGE AND PERSONAL INCOME TRENDS*

Right-to-Work States in 1956	Gross Earnings of Production Workers 1952-56 % Increase Weekly	Hourly	Personal Income % Change 1947-1955
Nevada	13.8%	25.3%	120.9%
North Carolina	14.2	13.3	62.1
North Dakota	17.9	21.8	- 1.5
South Carolina	16.1	15.0	66.1
South Dakota	22.1	20.4	7.6
Tennessee	15.6	17.9	52.3
Texas	20.7	23.6	70.6
Utah	24.4	24.7	60.2
Virginia	15.6	15.0	80.1
Average	18.7%	20.9%	61.2%
Other States			
Montana	19.4%	18.8%	41.8%
New Hampshire	12.6	12.3	55.3
New Jersey	16.8	18.5	84.6
New Mexico	19.2	25.3	97.6
New York	16.5	17.1	43.8
Ohio	20.9	20.8	68.5
Oklahoma	19.8	21.8	51.9
Oregon	13.1	12.7	55.7
Pennsylvania	21.0	21.2	47.9
Rhode Island	10.7	12.2	43.9
Vermont	13.5	15.1	35.9
Washington	16.6	15.2	54.8
West Virginia	21.8	22.3	30.4
Wisconsin	17.4	18.8	51.0
Wyoming	17.5	16.9	41.7
Average	17.6%	18.6%	58.6%
Right-to-Work States outgained rest of country by these percentages -	6.3%	12.4%	4.4%

APPENDIX B

TEXT OF STATE RIGHT-TO-WORK LAWS

APPENDIX B

TEXT OF STATE RIGHT-TO-WORK LAWS

ALABAMA

"Section 1. It is hereby declared to be the public policy of Alabama that the right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization.

"Section 2. Any agreement or combination between any employer and any labor union or labor organization whereby persons not members of such union or organization shall be denied the right to work for said employer, or whereby such membership is made a condition of employment or continuation of employment by such employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is hereby declared to be against public policy and an illegal combination or conspiracy.

"Section 3. No person shall be required by an employer to become or remain a member of any labor union or labor organization as a condition of employment or continuation of employment.

"Section 4. No person shall be required by an employer to abstain or refrain from membership in any labor union or labor organization as a condition of employment or continuation of employment.

"Section 5. No employer shall require any person, as a condition of employment or continuation of employment, to pay any dues, fees or other charges of any kind to any labor union or labor organization.

"Section 6. Any person who may be denied employment or be deprived of continuation of his employment in violation of sections three, four or five or of one or more of such sections, shall be entitled to recover from such employer and from any other person, firm, corporation or association acting in concert with him by appropriate action in the courts of this State such damages as he may have sustained by reason of such denial or deprivation of employment.

"Section 7. The provisions of this act shall not apply to any lawful contract in force on the effective date hereof but they shall apply in all respects to contracts entered into thereafter and to any renewal or extension of an existing contract.

"Section 8. The provisions of this act are declared to be severable, and the unconstitutionality or invalidity of any section or provision of this act shall not effect the remainder thereof."

Text of Act No. 430, L. 1953, approved and effective August 28, 1953.

ARIZONA

No person shall be denied the opportunity obtain or retain employment because of non-membership in a labor organization, nor shall the state or any subdivision thereof, or any corporation, individual or association of any kind enter into any agreement, written or oral, which excludes any person from employment or continuation of employment because of non-membership in a labor organization. Art. 2, Sec., 25, Constitution of Arizona, Initiated Constitutional Amendment, adopted at general election, November 5, 1946. Effective November 5, 1946.

Section 56-1301. Definition of labor organization. The term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or other conditions of employment.

Section 56-1302. Agreements prohibiting employment because of non-membership in labor organization prohibited. No person shall be denied the opportunity to obtain or retain employment because of non-membership in a labor organization, nor shall the state, or any subdivision thereof or any corporation, individual or association of any kind enter into any agreement, written or oral, which excludes any person from

employment or continuation of employment because of non-membership in a labor organization.

Section 56-1303. Certain contracts declared illegal and void. Any act or any provision in any agreement which is in violation of this Act shall be illegal and void. Any strike or picketing to force or influence any employer to make an agreement in writing or orally in violation of this Act shall be for an illegal purpose.

Section 56-1304. Compelling person to join labor organization or to strike against his will or to leave his employment prohibited. It shall be unlawful for any employee, labor organization, or officer, agent, or member thereof to compel or attempt to compel any person to join any labor organization or to strike against his will or to leave his employment by any threatened or actual interference with his person, immediate family or property.

Section 56-1305. Conspiracies to violate Act prohibited. Any combination or conspiracy by two or more persons to cause the discharge of any person or to cause him to be denied employment because he is not a member of a labor organization, by inducing or attempting to induce any other person to refuse to work with such person, shall be illegal.

Section 56-1306. Liability for damages. Any person who violates any provision of this Act, or who enters into any agreement containing a provision declared illegal by this

Act, or who shall bring about the discharge or the denial of employment of any person because of non-membership in a labor organization shall be liable to the person injured as the result of such act or provision and may be sued therefor, and in any such action any labor organization, subdivision or local thereof shall be held to be bound by the acts of its duly authorized agents acting within the scope of their authority, and may sue or be sued in its common name.

Section 56-1307. Injunctive relief. Any person injured or threatened with injury by any act declared illegal by this Act shall, notwithstanding any other provision of law to the contrary, be entitled to injunctive relief therefrom.

Section 57-1308. The word "person" includes a corporation, association, company, firm or labor organization, as well as a natural person.

Every undertaking or promise hereafter made, whether written or oral, express or implied, constituting or contained in either:

(1) A contract or agreement or hiring or employment between any employer and any employee or prospective employee, whereby (a) either party to such contract or agreement undertakes or promises not to join, become or remain, a member of any labor organization or of any organization of employers, or (b) either party to such contract or agreement undertakes or promises that he will withdraw from the employment relation

in the event that he joins, becomes or remains, a member of any labor organization or of any organization of employers; or

(2) In a contract or agreement for the sale of agricultural, horticultural, or dairy products between a producer of such products and a distributor or purchaser thereof, whereby either party to such contract or agreement undertakes or promises not to join, become or remain a member of any cooperative association organized under Chapter 13, Revised Code 1928, or of any trade association of the producers, distributors or purchasers of such products, is hereby declared to be contrary to public policy and wholly void and shall not afford any bases for the granting of legal or equitable relief by any court.

Any person who shall coerce or compel any other person to enter into an agreement, either written or verbal, not to join or become a member of any labor organization, as a condition of such other person securing employment or continuing in the employment of any such person shall be guilty of a misdemeanor.

ARKANSAS

No person shall be denied employment because of membership in or affiliation with or resignation from a labor union, or because of refusal to join or affiliate with a labor union;

nor shall any corporation or individual or association of any kind enter into any contract, written or oral, to exclude from employment members of a labor union or persons who refuse to join a labor union, or because of resignation from a labor union; nor shall any person against his will be compelled to pay dues to any labor organization as a prerequisite to or condition of employment. The General Assembly shall have power to enforce this article by appropriate legislation.

Text of Amendment No. 34, Constitution of Arkansas.

Section 1. Freedom of organized labor to bargain collectively, and freedom of unorganized labor to bargain individually, is declared to be the public policy of the State under Amendment No. 34 to the Constitution.

Section 2. No person shall be denied employment because of membership in, or affiliation with, a labor union; nor shall any person be denied employment because of failure or refusal to join or affiliate with a labor union; nor shall any person, unless he shall voluntarily consent in writing so to do, be compelled to pay dues, or any other monetary consideration to any labor organization as a prerequisite to, or condition of, or continuance of, employment.

Section 3. No person, group of persons, firm, corporation, association, or labor organization shall enter into any contract to exclude from employment, (1) persons who are members of, or affiliated with, a labor union; (2) persons

who are not members of, or who fail to refuse to join, or affiliate with, a labor union; and (3) persons who, having joined a labor union, have resigned their membership therein or have been discharged, expelled, or excluded therefrom.

Section 4. Any person, group of persons, firm, corporation, association, labor organization, or the representative, or representatives thereof, either for himself or themselves, or others, who signs, approves, or enters into a contract contrary to the provisions of this Act shall be guilty of a misdemeanor; and, upon conviction thereof, shall be fined in a sum not less than $100 nor more than $5,000 and each day such unlawful contract is given effect, or in any manner complied with, shall be deemed a separate offense and shall be punishable as such as herein provided.

The power and duty to enforce this Act is hereby conferred upon, and vested in, the Circuit Court of the county in which any person, group of persons, firm, corporation, unincorporated association, labor organization, or representatives thereof, who violate this Act or any part thereof, reside or have a place of business, or may be found and served with process.

Section 5. This Act shall not apply to existing contracts, but shall apply to any renewals or extensions thereof.

Section 6. The provisions of this Act are severable, and the invalidity of one shall not affect the validity of the others.

Section 7. Labor controversies, the disruption of industrial and agricultural labor by labor disputes, the effort to force laborers to join, or to refrain from joining, labor organizations, are a menace to the peace, quietude, safety and prosperity of the people of the State; an emergency is therefore declared, and this Act shall take effect from and after its passage.

Text of Ch. 101, Statutes 1947, approved February 19, 1947, providing for enforcement of Amendment No. 34 to the Constitution.

FLORIDA

The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union, or labor organization; provided, that this clause shall not be construed to deny or abridge the right of employees by and through a labor organization or labor union to bargain collectively with their employer.

Text of amendment to Section XII of the Florida Constitution, approved November 7, 1944.

GEORGIA

"Section 1. When used in this Act--

"(a) The Term 'Employer' includes any person acting in the interest of an employer, directly or indirectly, but shall

not include the United States, or any State, or any political subdivision thereof, or any person subject to the Railway Labor Act, as amended from time to time, or any labor organization (other than when acting as an employer), or any one acting in the capacity of officer or agent or agent of such labor organization.

"(b) The term 'Employee' shall include any employee, and shall not be limited to the employees of a particular employer.

"(c) The term 'Employment' means employment by an employer as defined in this Act.

"(d) The term 'Labor Organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

"Section 2. No individual shall be required as a condition of employment, or of continuance of employment, to be or remain a member or an affiliate of a labor organization, or to resign from or to refrain from membership in or affiliation with a labor organization.

"Section 3. No individual shall be required as a condition of employment, or of continuance of employment, to pay any fee, assessment, or other sum of money whatsoever to a labor organization.

"Section 4. Any provision in a contract between an employer and a labor organization which requires as a condition of employment, or of continuance of employment, that any individual be or remain a member or an affiliate of a labor organization, or that any individual pay any fee, assessment, or other sum of money whatsoever, to a labor organization, is hereby declared to be contrary to the public policy of this State, and any such provision in any such contract heretofore or hereafter made shall be absolutely void.

"Section 5. From and after the effective date of this Act it shall be unlawful for any employer to contract with any labor organization, and for any labor organization to contract with any employer, so as to make it a condition of employment of any individual, or of continuance of such employment, that such individuals be or remain a member of a labor organization, or that such individual pay any fee, assessment, or other sum of money whatsoever, to a labor organization.

"Section 6. No employer shall deduct from the wages or other earnings of any employee any fee, assessment, or other sum of money whatsoever, to be held for or to be paid to a labor organization, except on the individual order or request of such employee, revocable to the will of the employee.

"Section 7. From and after the effective date of this Act it shall be unlawful for any employer to contract with

any labor organization, and for any labor organization to contract with any employer, for the deduction of any fee, assessment, or other sum of money whatsoever, from the wages or other earnings of an employee, to be held for or to be paid over to a labor organization, except upon the condition to be embodied in said contract that such deduction will be made only on the individual order or request of such employee revocable at the will of such employee.

"Section 8. The remedy of injunction, in addition to any other available remedy, is hereby given to any individual whose employment is affected, or may be affected, by any contract which is declared in whole or in part to be void by any provision of this Act. The application for injunction may be filed in any court of appropriate jurisdiction, and service shall be made upon the parties in the manner now or hereafter provided by law. In any such proceeding the plaintif shall be entitled to his costs and reasonable attorneys' fees, and shall recover actual damages sustained by him. The court shall assess such costs, attorneys' fees and damages as between the parties to said contract under equitable rules and principles.

"Section 9. Any employer or labor organization, and any person acting for an employer or labor organization, who violates any of the provisions of Section 5, Section 6 or Section 7 of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 27-2506 of the Code of Georgia, 1933 (41,565).

"Section 10. Be it further enacted by the authority aforesaid that should any provision of this Act be held illegal or unconstitutional the same shall not vitiate the remaining provisions of this Act but all such provisions not held illegal or unconstitutional shall remain in full force and effect.

"Section 11. Be it further enacted by the authority aforesaid, and it is hereby enacted by the authority of the same, that all laws and parts of law in conflict with this Act be and the same are hereby repealed."

Text of Act 140, approved March 27, 1947, Secs. 54-901-54-911 Code of Georgia Annotated.

INDIANA

"Section 1. Public Policy.--It is hereby declared to be the public policy of the State of Indiana that membership or non-membership in a labor organization should not be made a condition to the right to work or to become an employee of or to continue in the employment of any employer; that employees should have the right of self-organization and the right to form, join, continue membership in, or assist labor organizations. The aforesaid rights of employees and each and all of them are fundamental and essential rights and any agreement between employers and labor organizations which makes membership or the maintenance thereof, or non-membership, in a labor organization a condition of employment or continued employment,

and any denial, severance or interruption of employment because of such membership or non-membership are violations of said rights and are against the public policy of the State of Indiana.

"Section 2. Definitions.--When used in this Act, the term "labor organization" shall mean any organization of any kind, or any agency, or employee representation committee or plan, which exists for the purpose in whole or in part of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

"Section 3. Prohibited Agreements.--No corporation or individual or association or labor organization shall solicit, enter into or extend any contract, agreement or understanding, written or oral, to exclude from employment any person by reason of membership or non-membership in a labor organization, or to discharge or suspend from employment or lay off any person by reason of his refusal to join a labor organization or by reason of his failure to maintain his membership in a labor organization or by reason of his resignation or expulsion or suspension from a labor organization. Any such contract, agreement or understanding, written or oral, entered into or extended after the effective date of this Act, shall be null and void and of no force or effect.

"Section 4. Prohibited Conduct.--No corporation or individual or association or labor organization shall encourage the exclusion, discharge, suspension, or layoff from employment of any person pursuant to any contract, agreement or understanding, written or oral, which contract, agreement or understanding violates Section 3 of this Act. No corporation or individual or association or labor organization shall exclude, discharge, suspend, or lay off from employment any person pursuant to any contract, agreement or understanding, written or oral, which contract, agreement or understanding violates Section 3 of this Act.

"Section 5. Penalties.--It is hereby declared to be a misdemeanor:

(a) To solicit, enter into or extend any contract, agreement or understanding, written or oral, which contract, agreement or understanding violates Section 3 of this Act;

(b) to encourage the exclusion , discharge, suspension or layoff from employment of any person pursuant to any contract, agreement or understanding, written or oral, which contract, agreement or understanding violates Section 3 of this Act;

(c) to exclude, discharge, suspend, or layoff from employment any person pursuant to any contract, agreement or understanding, written or oral, which contract, agreement or understanding, violates Section 3 of this Act; and any corporation or individual or association or labor organization

which commits any of said acts may, upon conviction be fined in any sum not to exceed one hundred dollars ($100) to which may be added imprisonment not to exceed ten (10) days.

"Section 6. Action for Damages.--Any person who is excluded, discharged, suspended, or laid off from employment pursuant to any contract, agreement or understanding, written or oral, which contract, agreement or understanding violates Section 3 of this Act, shall be entitled to recover from the parties thereto, by appropriate action in the courts of this state, the damages he sustains thereby together with a reasonable attorney's fee and the costs of the action. The liability for said recovery of damages, attorney's fee and costs shall be joint and several on the part of the parties to said contract, agreement or understanding.

"Section 7. Severability.--If any provision of this Act or the application thereof to any individual, corporation, association, organization or circumstance is held invalid, the remainder of this Act and the application thereof to other individuals, corporations, associations, organizations, or circumstances shall not be effected thereby.

All laws or parts of laws in conflict with the provisions of this Act are hereby repealed."

Text of Chapter 19, Acts of 1957. Effective June 25, 1957.

IOWA

"Section 736A.1. It is declared to be the policy of the State of Iowa that no person within its boundaries shall be deprived of the right to work at his chosen occupation for any employer because of membership in, affiliation with, withdrawal or expulsion from, or refusal to join, any labor union, organization, or association, and any contract which contravenes this policy is illegal and void.

"Section 736A.2. It shall be unlawful for any person, firm, association or corporation to refuse or deny employment to any person because of membership in, or affiliation with, or resignation or withdrawal from, a labor union, organization or association, or because of refusal to join or affiliate with a labor union, organization or association.

"Section 736A.3. It shall be unlawful for any person, firm, association, corporation or labor organization to enter into any understanding, contract, or agreement, whether written or oral, to exclude from employment members of a labor union, organization or association, or persons who do not belong to, or who refuse to join, a labor union, organization or association, or because of resignation or withdrawal therefrom.

"Section 736A.4. It shall be unlawful for any person, firm, association, labor organization or corporation, or

political subdivision, either directly or indirectly, or in any manner or by any means as a prerequisite to or a condition of employment to require any person to pay dues, charges, fees, contributions, fines or assessments to any labor union, labor association or labor organization.

"Section 736A.5. It shall be unlawful for any person, firm, association, labor organization or corporation to deduct labor organization dues, charges, fees, contributions, fines or assessments from an employee's earnings, wages or compensation, unless the employer has first been presented with an individual written order therefor signed by the employee, and by his or her spouse, if married, in the manner set forth in section five hundred thirty-nine point four (539.4), (46.565), which written order shall be terminable at any time by the employee giving at least thirty days written notice of such termination to the employer.

"Section 736A.6. Any person, firm, association, labor organization, or corporation or any director, officer, representative, agent or member thereof, who shall violate any of the provisions of this Act or who shall aid and abet in such violation shall be deemed guilty of a misdemeanor.

"Section 736A.7. Additional to the penal provisions of this Act, any person, firm, corporation, association or any labor union, labor association or labor organization, or any officer, representative, agent or member thereof may be restrained by injunction from doing or continuing to do any

of the matters and things prohibited by this Act, and all of the provisions of the law relating to the granting of restraining orders and injunctions, either temporary or permanent, shall be applicable.

"Section 736A.8. The provisions of this chapter shall not apply to employers or employees covered by the Federal Railroad Act."

Text of Ch. 736A. Secs. 736A.1--736A.8, approved and effective April 28, 1947, Acts 1947 (52G.A) Ch. 206.

KANSAS

"No person shall be denied the opportunity to obtain or retain employment because of membership or nonmembership in any labor organization, nor shall the state or any subdivision thereof, or any individual, corporation, or any kind of association enter into any agreement, written or oral, which excludes any person from employment or continuation of employment because of membership or non-membership in any labor organization."

Art. 15, Sec. 12, Constitution of Kansas, Initiated Constitutional Amendment, adopted at General election, November 4, 1958. Effective November 4, 1958.

MISSISSIPPI

"Section 1. (a) It is hereby declared to be the public policy of the state that the right to work shall not be denied

or abridged on account of membership or non-membership in any labor union or labor organization.

(b) Any agreement or combination between any employer and any labor union or labor organization whereby any person not a member of such union or organization shall be denied the right to work for an employer, or whereby such membership is made a condition of employment or continuation of employment by such employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is hereby declared to be an illegal combination or conspiracy and against public policy.

(c) No person shall be required by an employer to become or remain a member of any labor union or labor organization as a condition of employment or continuation of employment by such employer.

(d) No person shall be required by an employer to abstain or refrain from membership in any labor union or labor organization as a condition of employment or continuation of employment.

(e) No employer shall require any person, as a condition of employment or continuation of employment, to pay any dues, fees or other charges of any kind to any labor union or labor organization.

(f) Any person who may be denied employment or be deprived of continuation of his employment in violation of

any provision of this law, shall be entitled to recover from such employer and from any other person, firm, corporation or association acting in concert with him by appropriate action in the courts of this state such actual damages as he may have sustained by reason of such denial or deprivation of employment.

(g) These provisions shall not apply to any lawful contract in force at the time of the passage of this law, but they shall apply to all contracts thereafter entered into and to any renewal or extension of an existing contract thereafter occurring.

(h) This law shall not apply to any employer or employee under the jurisdiction of the Federal Railway Labor Act."

Note: Statute also contains usual severability clause to effect that invalidity of one part of law not affect validity of other parts not affected by particular action or circumstances involved.

Text of S.B. 139½, L. 1954, approved and effective February 2½, 1954.

NEBRASKA

"No person shall be denied employment because of membership in or affiliation with, or resignation or expulsion from a labor organization or because of refusal to join or affiliate with a labor organization; nor shall any individual

or corporation or association of any kind enter into any contract, written or oral, to exclude persons from employment because of membership in or non-membership in a labor organization.

"The term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

"This article is self-executing and shall supersede all provisions in conflict therewith; legislation may be enacted to facilitate its operation but no law shall limit or restrict the provisions hereof." Secs. 13, 14 and 15 of Article 15 of the Constitution, as added by amendment proposed by Initiative Petition and adopted by voters at general election, November 5, 1946, effective December 11, 1946, through proclamation of Governor.

"Section 48-217. To make operative the provisions of Section 13, 14 and 15 or Article 15 of the Constitution of Nebraska, no person shall be denied employment because of membership in or affiliation with, or resignation or expulsion from a labor organization or because of refusal to join or affiliate with a labor organization; nor shall any individual or corporation or association of any kind enter into any contract, written or oral, to exclude persons from employment

because of membership in or non-membership in a labor organization.

"Section 48-218. The term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rate of pay, hours of employment, or conditions of work.

"Section 48-219. Any individual, corporation or association that enters into a contract after the effective date of this Act in violation of the provisions of Section 1 of this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum of not less than one hundred dollars nor more than five hundred dollars."

Text of Secs. 48-217-48-219, Ch. 177, L. 1947, approved June 10, 1947, effective September 7, 1947.

NEVADA

"Section 1. Definition of Labor Organization.--'Labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment.

"Section 2. No person shall be denied the opportunity to obtain or retain employment because of non-membership in a labor organization, nor shall the state, or any subdivision thereof or any corporation, individual or association of any kind enter into any agreement, written or oral, which excludes any person from employment or continuation of employment because of non-membership in a labor organization.

"Section 3. Any act or any provision in any agreement which is in violation of this Act shall be illegal and void. Any strike or picketing to force or induce any employer to make an agreement in writing or orally in violation of these provisions shall be for an illegal purpose.

"Section 4. It shall be unlawful for any employee, labor organization, or officer, agent or member thereof to compel or attempt to compel any person to join any labor organization or to strike against his will or to leave his employment by any threatened or actual interference with his person, immediate family or property.

"Section 5. Any combination or conspiracy by two or more persons to cause the discharge of any person or to cause him to be denied employment because he is not a member of a labor organization, by inducing or attempting to induce any other person to refuse to work with such person, shall be illegal.

"Section 6. Any person who violates any of these provisions, or who enters into any agreement containing a provision herein declared illegal, or who shall bring about the discharge or the denial of employment of any person because of non-membership in a labor organization shall be liable to the person injured as a result of such act or provision and may be sued therefor, and in any such action any labor organization, subdivision or local thereof shall be bound by the acts of its duly authorized agents acting within the scope of their authority and may sue or be sued in its common name.

"Section 7. Any person injured or threatened with injury by an act declared illegal by these provisions shall, notwithstanding any other provision of law to the contrary, be entitled to injunctive relief therefrom.

"Section 8. The word 'person' includes a corporation, association, company, firm or labor organization, as well as a natural person."

Text of Secs. 1-8, Ch. 1, L. 1953, enacted pursuant to initiative petitions submitted to electors at general election of November 4, 1952, and adopted by majority vote and effective December 4, 1952.

NORTH CAROLINA

"Section 95-78. The right to live includes the right to work. The exercise of the right to work must be protected

and maintained free from undue restraints and coercion. It is hereby declared to be the public policy of North Carolina that the right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization or association.

"Section 95-79. Any agreement or combination between any employer and any labor union or labor organization whereby persons not members of such union or organizations shall be denied the right to work for said employer, or whereby such membership is made a condition of employment or continuation of employment by such employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is hereby declared to be against the public policy and an illegal combination or conspiracy in restraint of trade or commerce in the State of North Carolina.

"Section 95-80. No person shall be required by an employer to become or remain a member of any labor union or labor organization as a condition of employment or continuation of employment by such employer.

"Section 95-81. No person shall be required by an employer to abstain from membership in any labor union or labor organization as a condition of employment or continuation of employment.

"Section 95-82. No employer shall require any person, as a condition of employment or continuation of employment, to

pay any dues, fees or other charges of any kind to any labor union or labor organization.

"Section 95-83. Any person who may be denied employment or be deprived of continuation of his employment in violation of Sections 95-80, 95-81 and 95-82 or of one or more of such Sections, shall be entitled to recover from such employer and from any other person, firm, corporation, or association acting in concert with him by appropriate action in the courts of this State such damages as he may have sustained by reason of such denial or deprivation of employment.

"Section 95-84. The provisions of this article (Secs. 95-78 to 95-83) shall not apply to any lawful contract in force on the effective date hereof but they shall apply in all respects to contracts entered into thereafter and to any renewal or extension of any existing contract."

Text of Ch. 95, Art. 10, L. 1947, Ch. 302, approved and effective March 18, 1947.

NORTH DAKOTA

"No person shall be deprived of life, liberty or property without due process of law. The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization, and all contracts in negation or abrogation of such rights are hereby declared to be invalid, void and unenforceable."

Text of Sec. 34-011½, L. 1947, ratified by referendum June 29, 1948.

SOUTH CAROLINA

"Section 1. It is hereby declared to be the public policy of South Carolina that the right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization.

"Section 2. Any agreement or combination between any employer and any labor organization whereby persons not members of such labor organizations shall be denied the right to work for such employer or whereby such membership is made a condition of employment, or of continuance of employment by such employers, or whereby any such union or organization acquires an employment monopoly in any enterprise is hereby declared to be against public policy, unlawful and an illegal combination or conspiracy.

"Section 3. It shall be unlawful for any employer:

(a) To require any employee, as a condition of employment, or of continuance of employment, to be or become or remain a member or affiliate of any labor organization or agency;

(b) To require any employee, as a condition of employment, or of continuance of employment, to abstain or refrain from membership in any labor organization;

(c) To require any employee, as a condition of employment, or of continuance of employment, to pay any fees, dues, assessments or other charges or sums of money whatsoever to any person or organization.

"Section 4. Nothing in this Act shall preclude any employer from deducting from the wages of the employees and paying over to any labor organization, or its authorized representative, membership dues in a labor organization: Provided, that the employer has received from each employee on whose account such deductions are made, a written assignment which shall not be irrevocable for a period of more than one year or beyond the termination date of any applicable collective agreement or assignment, whichever occurs sooner.

"Section 5. It shall be unlawful for any labor organization to enter into or seek to effect any agreement, contract or arrangement with any employer declared to be unlawful by Section 2 or Section 3 of this Act.

"Section 6. The provisions of Section 2, 3, and 4 of this Act shall not apply to any contract, otherwise lawful, in force and effect on the effective date of this Act, but they shall apply to all contracts thereafter concluded and to any renewal or extension of existing contracts.

"Section 7. It shall be unlawful for any person, acting alone or in concert with one or more persons:

(a) By force, intimidation, violence or threats thereof, or violent or insulting language, directed against the person or property, or any member of the family of any person (1) to interfere, or attempt to interfere, with such person in the exercise of his right to work, to pursue or engage in any lawful vocation or business activity, to enter or leave any place of his employment, or to receive, ship or deliver materials, goods or services not prohibited by law, or (2) to compel or attempt to compel any person to join, or support, or refrain from joining or supporting any labor organization, or

(b) To engage in picketing by force or violence or in such number or manner as to obstruct or interfere, or constitute a threat to obstruct or interfere, with (1) free ingress to, and egress from, any place of employment, or (2) free use of roads, streets, highways, sidewalks, railways or other public ways of travel, transportation or conveyance.

(c) Nothing in this section shall be construed so as to prohibit peaceful picketing permissible under the National Labor-Management Relations Act of 1947 and the Constitution of the United States.

"Section 8. Any employer, labor organization or other person whomsoever who shall violate any provision of this Act shall be guilty of a misdemeanor, and, upon conviction thereof in any court of competent jurisdiction, shall be punished by imprisonment for not less than ten nor more than thirty days

or by a fine of not less than ten nor more than one thousand dollars or by both in the discretion of the court.

"Section 9. Any person whose rights are adversely affected by any contract, agreement, assemblage or other act or thing done or threatened to be done and declared to be unlawful or prohibited by this act shall have the right to apply to any court having general equity jurisdiction for appropriate relief. The court, in any such proceeding, may grant and issue such restraining, and other, orders as may be appropriate, including an injunction restraining and enjoining the performance, continuance, maintenance or commission of any such contract, agreement, assemblage, act or thing, and may determine and award, as justice may require, any actual damages, costs and attorneys' fees which have been sustained or incurred by any party to the action, and, in the discretion of the court or jury, punitive damages in addition to the actual damages. The provisions of this section are cumulative and are in addition to all other remedies now or hereafter provided by law.

"Section 10. If any section, provision or part of this Act shall be adjudged invalid or unconstitutional, such judgment shall not affect, invalidate or impair the remaining sections or provisions hereof.

"Section 11. This Act shall take effect upon its approval by the Governor."

Text of S.B. 443, L. 1954, approved and effective March 19, 1954.

SOUTH DAKOTA

CONSTITUTIONAL AMENDMENT.--No person shall be deprived of life, liberty or property without due process of law. The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization." Sec. 2, Art. VI, State Constitution.

17.1101, Section 1. "No person shall be deprived of life, liberty, or property without due process of law. The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union, or labor organization.

"Section 2. Any agreement relating to employment, whether in writing or oral, which by its stated terms, or by implication, interpretation, or effect thereof, directly or indirectly denies, abridges, interferes with, or in any manner curtails the free exercise of the right to work by any citizen of the State of South Dakota, shall be deemed a violation of this Act.

"Section 3. Any request, demand or threat made by any person to any employer or employee to persuade or coerce such employer or employee to enter into an agreement violative of the provisions contained in Sections 1 and 2 of this Act.

shall be deemed a violation of this Act, and such person shall be punished for a misdemeanor as hereinafter provided.

"Section 4. Any solicitation or request to join a labor organization made by any person to any employee, accompanied by threats of injury to such employee or members of his family, or damage to property, or loss or impairment of present or future employment of such employee, shall be deemed a violation of this Act, and such person shall be punishable for a misdemeanor as hereinafter provided. Sec. 17.1101, Supp. 1952.

"Violation of any of the provisions of Sec. 17.1101 shall constitute a misdemeanor and upon conviction will be punishable by a fine of not more than three hundred dollars or imprisonment not to exceed ninety days, or both, in the discretion of the court. Each violation shall constitute a separate offense.

It shall be the duty of the states attorney of every county to prosecute all persons violating any of the provisions of section 17.1101 in his county, and he shall be responsible for the proper enforcement of such section, and whenever he shall have any information or knowledge or have any reason to believe that any of the provisions of such section are being violated in his county, he shall investigate the same and use every legitimate means at his command to secure the necessary and proper evidence of such violation,

and immediately upon securing such evidence, he shall file a complaint or preliminary information against any person against whom he shall have any evidence of any such violation and he shall have such person arrested and shall vigorously prosecute such charge to final judgment.

Text of Secs. 17.1101 and 17.9914. Sec. 17.1101 became effective July 1, 1947. Sec. 17.9914 became effective July 1, 1955.

TENNESSEE

"Section 11412.8. It shall be unlawful for any person, firm, corporation or association of any kind to deny or attempt to deny employment to any person by reason of such person's membership in, affiliation with, resignation from, or refusal to join or affiliate with any labor union or employee organization of any kind.

"Section 11412.9. It shall be unlawful for any person, firm, corporation or association of any kind to enter into any contract, combination or agreement, written or oral, providing for exclusion from employment of any person because of membership in, affiliation with, resignation from or refusal to join or affiliate with any labor union or employee organization of any kind.

"Section 11412.10. It shall be unlawful for any person, firm, corporation or association of any kind to exclude from

employment any person by reason of such person's payment of or failure to pay dues, fees, assessments, or other charges to any labor union or employee organization of any kind.

"Section 11½12.11. The provisions of this Act shall not apply to any lawful contract in force on the effective date of this Act, but shall apply in all respects to contracts entered into thereafter, and to any renewal or extension of any existing contract.

"Section 11½12.12. Any person, firm, corporation or association of any kind violating any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction therefor, shall be punishable by a fine of not less than $100 and not more than $500, and in addition thereto by imprisonment in the county jail for a period of less than 12 months. Each day that any person, firm, corporation or association of any kind remains in violation of any of the provisions of this Act shall be deemed to be a separate and distinct offense.

"Section 11½12.13. If any part, clause or section of this Act shall be unconstitutional, it shall not affect any other part or provision thereof."

Text of Article XLV, Secs. 11½12.3-11½12.13, Public Chapter No. 36, L. 1947, approved February 21, 1947.

TEXAS

"Section 1. The inherent right of a person to work and bargain freely with his employer, individually or

collectively, for terms and conditions of his employment shall not be denied or infringed by law, or by any organization of whatever nature.

"Section 2. No person shall be denied employment on account of membership or non-membership in a labor union.

"Section 3. Any contract which requires or prescribes that employees or applicants for employment in order to work for an employer shall or shall not be or remain members of a labor union, shall be null and void and against public policy. The provisions of this Section shall not apply to any contract or contracts heretofore executed but shall apply to any renewal or extension of any existing contract and to any new agreement or contract executed after the effective date of this Act.

"Section 4. Definitions. The term 'labor union' as used in this Act shall mean every association, group, union, lodge, local, branch or subordinate organization of any union of working men, incorporated or unincorporated, organized and existing for the purpose of protecting themselves and improving their working conditions, wages, or employment relationships in any manner, but shall not include associations or organizations not commonly regarded as labor unions."

Note: The statute contains a severability clause.

Text of Art. 5207A., approved April 8, 1947, effective September 5, 1947.

"Section 1. It shall constitute a conspiracy in restraint of trade for any employer and any labor union or labor organization or other organization to enter into any agreement or combination whereby persons are denied the right to work for an employer because of membership or non-membership in such union, labor organization or other organization; or whereby such membership or non-membership is made a condition of employment or of continuation of employment by an employer.

"Section 2. Nothing herein shall be construed to make unlawful any act or agreement by which any person, group or organization refers for employment or agrees to refer for employment migratory farm laborers who harvest or otherwise work on seasonal agricultural crops if such persons, groups or organizations refer persons for employment regardless of whether the persons so referred do or do not belong to a union or labor organization.

"Section 3. All laws and parts of laws in conflict herewith are repealed."

Note: The statute contains a severability clause.

Text of Art. 7h28.1 approved June 28, 1951, effective Sept. 7, 1951.

UTAH

"Section 1. This Act shall be known as the Utah Right to Work Law.

"Section 2. It is hereby declared to be the public policy of the State of Utah that the right of persons to work, whether in private employment or for the state of Utah, its counties, cities, school districts, or other political subdivisions, shall not be denied or abridged on account of membership or non-membership in any labor union, labor organization or any other type of association; further, that the right to live includes the right to work. The exercise of the right to work must be protected and maintained free from undue restraints and coercion.

"Section 3. The term 'employer' as used in this act shall include all persons, firms, associations, corporations, the state of Utah, its counties, cities, school districts and other political subdivisions.

"Section 4. Any express or implied agreement, understanding or practice between any employer and any labor union, labor organization or any other type of association, whereby any person not a member of such union, organization or any other type of association shall be denied the right to work for an employer, or whereby membership or non-membership in such labor union, labor organization or any other type of association is made a condition of employment or continuation of employment by such employer, or whereby any such union, organization or any other type of association acquires an employment monopoly in any enterprise or industry, is hereby

declared to be an illegal combination or conspiracy and against public policy.

"Section 5. Any express or implied agreement, understanding or practice which is designed to cause or require, or has the effect of causing or requiring, any employer or labor union, labor organization or any other type of association, whether or not a party thereto, to violate any provision of this Act is hereby declared an illegal agreement, understanding, or practice and contrary to public policy.

"Section 6. Any person, firm, association, corporation, labor union, labor organization or any other type of association engaging in lockouts, layoffs, boycotts, picketing, work stoppages, or other conduct, a purpose of which is to compel or force any other person, firm, association, corporation, labor union, labor organization or any other type of association to violate any provision of this Act shall be guilty of illegal conduct contrary to public policy; provided that nothing herein contained shall be construed to prevent or make illegal the peaceful and orderly solicitation and persuasion by members of a labor union, labor organization or any other type of association of others to join a labor union, labor organization or any other type of association, unaccompanied by any intimidation, use of force, threat of use of force, reprisal, or threat of reprisal.

"Section 7. It shall be unlawful for any employer, person, firm, association, corporation, employee, labor union,

labor organization or any other type of association, officer or agent of such, or member thereof, to compel or force, or to attempt to compel or force, any person to join or refrain from joining any labor union, labor organization or any other type of association.

"Section 8. No employer shall require any person to become or remain a member of any labor union, labor organization or any other type of association as a condition of employment or continuation of employment by such employer.

"Section 9. No employer shall require any person to abstain or refrain from membership in any labor union, labor organization or any other type of association as a condition of employment or continuation of employment.

"Section 10. No employer shall require any person to pay any dues, fees, or other charges of any kind to any labor union, labor organization or any other type of association as a condition of employment or continuation of employment.

"Section 11. Any employer, person, firm, association, corporation, employee, labor union, labor organization or any other type of association injured as a result of any violation or threatened violation of any provision of this Act or threatened with any such violation shall be entitled to injunctive relief against any and all violators or persons threatening violation, and also to recover from such violator or violators, or person or persons, any and all damages of any character

cognizable at common law resulting from such violations or threatened violations. Such remedies shall be independent of and in addition to the penalties and remedies prescribed in other provisions of this act.

"Section 12. In addition to the penal provisions of this act, any person, firm, corporation, association, or any labor union, labor organization or any other type of association, or any officer, representative, agent or member thereof may be restrained by injunction from doing or continuing to do any of the matters and things prohibited by this act.

"Section 13. Any person who may be denied employment or be deprived of continuation of his employment in violation of this act shall be entitled to recover from such employer and from any other person, firm, corporation or association acting in concert with him by appropriate action in the courts of this State such damages as he may have sustained by reason of such denial or deprivation of employment.

"Section 14. The jurisdiction of any action brought to enforce this act is hereby conferred upon and vested in the Judicial District Court of the County in which any person, group of persons, firm, association, corporation, labor union, labor organization or any other type of association, or representatives thereof, who violates this act, or any part thereof resides or has a place of business, or may be found and served with process.

"Section 15. The provisions of this act shall not apply to any lawful contract in force on the effective date hereof but they shall apply in all respects to contracts entered into thereafter and to any renewal or extension of any existing contract.

"Section 16. Nothing in this act shall be construed to deny the right of employees to bargain collectively with their employer by and through labor unions, labor organizations or any other type of associations.

"Section 17. If any clause, sentence, paragraph or part of this act or the application thereof to any person or circumstance, shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not effect, impair, or invalidate the remainder of this act, and the application thereof to other persons or circumstances, but shall be confined to the part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person or circumstance involved.

"Section 18. A violation of this act shall constitute a misdemeanor, and each day such unlawful conduct as herein defined is in effect or continued, it shall be deemed a separate offense and shall be punishable as such, as herein provided."

VIRGINIA

"Sections 40-68. It is hereby declared to be the public policy of Virginia that the right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization.

"Sections 40-69. Any agreement or combination between any employer and any labor union or labor organization whereby persons not members of such union or organization shall be denied the right to work for said employer, or whereby such membership is made a condition of employment or continuation of employment by such employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is hereby declared to be against public policy and an illegal combination or conspiracy.

"Sections 40-70. No person shall be required by an employer to become or remain a member of any labor union or labor organization as a condition of employment or continuation of employment by such employer.

"Sections 40-71. No person shall be required by an employer to abstain or refrain from membership in any labor union or labor organization as a condition of employment or continuation of employment.

"Sections 40-72. No employer shall require any person as a condition of employment or continuation of employment, to

pay any dues, fees or other charges of any kind to any labor union or labor organization.

"Sections 40-74. Any person who may be denied employment or be deprived of continuation of his employment in violation of sections three, four or five or of one or more of such sections, shall be entitled to recover from such employer and from any other person, firm, corporation or association acting in concert with him by appropriate action in the courts of this Commonwealth, such damages as he may have sustained by reason of such denial or deprivation of employment.

"Sections 40-74.1. Any agreement, understanding or practice which is designed to cause or require any employer, whether or not a party thereto, to violate any provision of this article is hereby declared to be an illegal agreement, understanding or practice and contrary to public policy.

"Sections 40-74.2. Any person, firm, association, corporation, or labor union or organization engaged in lockouts, lay-offs, boycotts, picketing, work stoppages or other conduct, a purpose of which is to cause, force, persuade or induce any other person, firm, association, corporation or labor union or organization to violate any provision of this article shall be guilty of illegal conduct contrary to public policy; provided that nothing herein contained shall be construed to prevent or make illegal the peaceful and orderly solicitation and persuasion by union members of others to join a union,

unaccompanied by an intimidation, use of force, threat of use or force, reprisal or threat of reprisal, and provided that no such solicitation or persuasion shall be conducted so as to interfere with, or interrupt the work of any employee during working hours.

Sections 40-74.3. Any employer, person, firm, association, corporation, labor union or organization injured as a result of any violation or threatened violation of any provision of this article or threatened with any such violation shall be entitled to injunctive relief against any and all violators or persons threatening violation, and also to recover from such violator or violators, or person or persons, any and all damages of any character cognizable at common law resulting from such violations or threatened violations. Such remedies shall be independent of and in addition to the penalties and remedies prescribed in other provisions of this article.

"Sections 40-74.4. Any labor union or labor organization doing business in this State, all of whose officers and trustees are nonresidents of the State, shall by written power of attorney, filed with the Department of Labor and Industry, appoint the Secretary of the Commonwealth its attorney or agent upon whom all legal process against the union or organization may be served, and who shall be authorized to enter an appearance on its behalf. The manner of service of process on the Secretary of the Commonwealth, the mailing thereof to the

labor union or organization, the fees therefor, the effect of judgments, decrees and orders, and the procedure in cases where no power of attorney is filed as required, shall be the same as provided for in cases of foreign corporations in Sections 13-215, 13-216 and 13-217 of the Code of Virginia.

"Sections 40-74.3. Any violation of any of the provisions of this article by any person, firm, association, corporation, or labor union or organization shall be a misdemeanor and punishable by fine not exceeding $500. Each day of continued violation after conviction shall constitute a separate offense and shall be punishable as herein provided.

"Sections 40-74.1. through 40-74.5, were added by Ch. 431, L. 1954, approved April 3, 1954, effective June 30, 1954. (The law contains a severability clause and provides that its provisions do not affect or apply to litigation pending on or prior to its effective date)."

Note: Statute contains a severability clause.

Text of Secs. 40-68 -- 40-74 were approved January 12, 1947. Secs. 40-74.1 -- 40-74.5 were approved April 3, 1954, effective June 30, 1954.

(These state right to work laws were taken from a pamphlet, State Right-To-Work Laws, published and distributed by The National Right To Work Committee, 1025 Connecticut Avenue, N. W., Washington 6, D. C., with the exception of the Kansas Amendment Number Three. This amendment was enacted

after the publication of the pamphlet. The Kansas Amendment Number Three was taken from Your Government, Vol. XIV, No. 1, a bulletin of the Governmental Research Center, Ethan P. Allen, Director, University of Kansas, Lawrence, Kansas, published September 15, 1951.)

GLOSSARY

GLOSSARY

AFL-CIO--Designation for the merged American Federation of Labor-Congress of Industrial Organizations labor union federation.

Bargaining Fee--A fee sometimes paid by non-union workers in a plant to cover the costs of union representation for them in collective bargaining or in grievance cases.

Bargaining Unit--A group over which a given union has jurisdiction for the purposes of collective bargaining.

Certification--Recognition by the National Labor Relations Board, or by a state labor relations board that a union has been duly selected by the employees of a company as their exclusive bargaining agent.

Collective Bargaining--The process in which representatives of a company or a group of companies, and union representatives of the employees discuss and negotiate over such matters as wages, hours of work and other conditions of employment.

Compulsory Membership--Where workers have to join or remain union members as a condition of employment.

Decertification Elections--Recognition by the National Labor Relations Board that workers in a given plant no longer desire to be represented by a given union.

Discrimination--A refusal of an employer to hire or keep in his employ any worker, either because of union status or because of his race, creed or color.

Escape Period--A period of time during which employees are permitted to discontinue union membership under maintenance of membership agreements, without loss of employment.

Exclusive Bargaining Agent--Union status agreed to by a company or granted by the National Labor Relations Board, or by a similar state board, under which the union is the sole bargaining agent for all the workers in a given plant or company, whether they are union members or not.

Free Rider--A non-union member, who although not paying dues, is alleged to receive all the benefits of union representation in collective bargaining and in connection with grievances.

Fringe Benefits--Those results of a labor agreement that concern money but are not a part of the employee's regular pay; for example, vacation, pension rights, etc.

Grievance--An employee's feeling of dissatisfaction or of being unfairly treated by a company or its representatives.

Industry-Wide Bargaining--Collective bargaining by representatives of all the important companies in a given industry and the union representing their employees with the view of arriving at one mutually acceptable agreement to cover the whole industry.

Labor Agreement--A written understanding between a union and the company regarding wages, hours, conditions of work, or labor representation.

Maintenance of Dues--Similar to maintenance of membership, except that, for the duration of the agreement, existing and future members of the union are required to continue to pay their dues as a condition of employment, but no employee is required to join the union.

McLellan Committee--The Select Senate Committee on Improper Activities in the Labor or Management Field which has been recently holding hearings in Washington, D. C. on shady activities within certain unions. Senator McLellan has been chairman of this committee.

NLRB--Abbreviation for the National Labor Relations Board, the body charged with investigating unfair labor practices and enforcing the Taft-Hartley Act.

Organized Labor--A general term applying to members of all types of labor unions.

Recognition--Acceptance by a company of a union as the bargaining agent for its employees.

Voluntarism--A situation under which an employee has the right not to join a union. Opposite of Compulsory Unionism.